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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ, on
Behalf of Themselves and all Others
Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No. 4:16-cv-03396-YGR

**DECLARATION OF YEREMEY
KRIVOSHEY IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S *DAUBERT* MOTION TO
STRIKE OR EXCLUDE THE OPINIONS
OF PLAINTIFF'S EXPERT COLIN B.
WEIR**

Date: March 19, 2019

Time: 2:00 p.m.

Courtroom: 1

Hon. Yvonne Gonzalez Rogers

1 I, Yeremey Krivoshey, declare as follows:

2 1. I am an attorney at law licensed to practice in the State of California and a member
3 of the bar of this Court. I am a Partner at Bursor & Fisher, P.A., counsel of record for Plaintiff in
4 this action. I have personal knowledge of the facts set forth in this declaration and, if called as a
5 witness, I could and would competently testify thereto under oath.

6 2. Attached hereto as **Exhibit 1** is a true and correct copy of the November 12, 2018
7 Declaration of Colin B. Weir.

8 3. Attached hereto as **Exhibit 2** is a true and correct copy of the November 12, 2018
9 Class Member Data Tabulation Report of Anya Verkhovskaya.

10 4. Attached hereto as **Exhibit 3** is a true and correct copy of Plaintiffs' Second Set of
11 Requests for Production of Documents to Defendant Rash Curtis & Associates dated February 8,
12 2017.

13 5. Attached hereto as **Exhibit 4** is a true and correct copy of Plaintiffs' Third Set of
14 Requests for Production of Documents to Defendant Rash Curtis & Associates dated August 25,
15 2017.

16 6. Attached hereto as **Exhibit 5** is a true and correct copy of Defendant's Responses to
17 Plaintiffs' Second Set of Interrogatories dated June 26, 2017.

18 7. Attached hereto as **Exhibit 6** is a true and correct copy of an email from
19 Defendant's counsel Anthony Paul John Valenti to me dated June 28, 2017.

20 8. Attached hereto as **Exhibit 7** is a true and correct copy of an email from
21 Defendant's counsel Anthony Paul John Valenti to me dated July 22, 2017.

22 9. Attached hereto as **Exhibit 8** are true and correct copies of excerpts from the
23 transcript of the October 16, 2017 deposition of Nick Keith.

24 10. Attached hereto as **Exhibit 9** are true and correct copies of excerpts from the
25 transcript of the October 20, 2017 deposition of Daniel Correa.

26 11. Attached hereto as **Exhibit 10** is a true and correct copy of a February 2014 email
27 exchange between Nick Keith and others at Rash Curtis. In an email dated February 24, 2014 at
28 4:57 p.m., Mr. Keith stated: "I was talking to Chris [Paff] and Bob [Keith] and Chris's Theory is if

1 we have all ECA, and Accurant skip tracing phone numbers placed in fields 5-10 we can make the
2 dialer and global not call these phone numbers and only the first four fields which are ALWAYS
3 reserved for client given phone numbers or approved phone numbers by the debtor.”

4 12. Attached hereto as **Exhibit 11** is a true and correct copy of a May 12, 2016 email
5 exchange between Nick Keith and others at Rash Curtis. In an email dated May 12, 2016 at 8:22
6 a.m., Mr. Keith stated: “We made it so ECA’s don’t put phone numbers in the top fields and the
7 rest of the numbers would be what came from the client. The collectors should be putting skip
8 traced number[s] into the lower fields.”

9 13. Attached hereto as **Exhibit 12** is a true and correct copy of an August 2015 email
10 exchange between Nick Keith and others at Rash Curtis. In an email dated August 4, 2015 at 3:01
11 p.m., Mr. Keith stated: “We are currently waiting [for] a spin from Dakes that will get all phone
12 numbers (sequence 1-4) that were ... [obtained] from any ECA’s or batching from skip tracing
13 vendors. When these are gathered they will place them into sequence 5-10.”

14 14. Attached hereto as **Exhibit 13** are true and correct copies of excerpts from the
15 transcript of the December 11, 2018 deposition of Colin B. Weir.

16 15. Attached hereto as **Exhibit 14** are true and correct copies of excerpts from the
17 transcript of the December 17, 2018 deposition of Randall A. Snyder.

18 16. Attached hereto as **Exhibit 15** is a true and correct copy of Defendant’s September
19 27, 2017 Responses to Plaintiff’s Third Set of Interrogatories.

20 17. Pursuant to the Court’s 11/6/2018 Scheduling Order No. 2, Defendant’s deadline to
21 serve rebuttal reports was on November 26, 2018. Defendant did not disclose any rebuttal
22 witnesses, and did not served any rebuttal reports.

23 18. Along with Plaintiff’s expert reports, and in the course of expert discovery, Plaintiff
24 produced records underlying Plaintiff’s expert reports such that Defendant has had ample
25 opportunity to ascertain the veracity of Plaintiff’s experts’ opinions.

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1 I declare under the penalty of perjury under the laws of the State of California and the
2 United States that the foregoing is true and correct and that this declaration was executed in Walnut
3 Creek, California this 11th day of February, 2019.

4 /s/ Yeremey Krivoshey

5 Yeremey Krivoshey
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA AND IGNACIO PEREZ, on
Behalf of Themselves and all Others Similarly
Situating,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No. 16-cv-03396-YGR

Declaration

of

COLIN B. WEIR

November 12, 2018

I, Colin B. Weir, declare as follows:

I am Vice President at Economics and Technology, Inc. ("ETI"), One Washington Mall, 15th Floor, Boston, Massachusetts 02108. ETI is a research and consulting firm specializing in economics, statistics, regulation and public policy.

I. QUALIFICATIONS, BACKGROUND, AND EXPERIENCE

1. I hold a Masters of Business Administration, with honors, from the High Technology program at Northeastern University, Boston, Massachusetts. I hold a Bachelor of Arts degree cum laude in Business Economics from The College of Wooster, Wooster, Ohio. I have provided expert testimony before federal and state courts, the Federal Communications Commission, and state regulatory commissions, and have contributed research and analysis to numerous ETI publications and expert testimony at the state, federal, and international levels. I have consulted on a number of cases involving telecommunications issues, including the TCPA, broadband technology and Internet access; technical issues associated with net neutrality; Early Termination Fees (ETFs); Late Fees; wireless handset locking practices, merger/antitrust analysis, determination of Federal Excise Tax burden, ISP-bound traffic studies, area code splits and related numbering policy, Universal Service Fund issues, pricing and regulation of Unbundled Network Elements, analysis of special access rates and pricing trends, and development of a macroeconomic analysis quantifying the economic impact upon the US economy and job markets of overpricing special access services; wireless pricing; and wireline telecommunications tariff and contract pricing. I have also consulted on a variety of consumer and wholesale products cases, calculating damages relating to telecom products, food products, household appliances, herbal remedies, health/beauty care products, electronics, and computers. My Statement of Qualifications, which outlines my professional experience, publications, and record of expert testimony, is attached hereto as Exhibit 1. This includes a list of all cases in

Declaration of Colin B. Weir

November 12, 2018

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which, during the previous four years, I have testified as an expert at trial or by deposition. Prior to joining ETI, I worked at Stop and Shop Supermarkets for a period of seven years, working as a cash department head, grocery/receiving clerk, and price-file maintenance head.

II. ENGAGEMENT

2. I have been asked by Counsel for Plaintiff to examine Defendant's call detail records, and to summarize some of Defendant's calling behavior. I have also been asked to tabulate statutory damages. I make this declaration based upon my own personal knowledge and, if called as a witness in this action, I would be able to competently testify as to the facts and opinions set forth herein

3. ETI is being compensated at the rate of \$600 per hour for my work on this case. The opinions expressed in this declaration are my own, and my compensation is not dependent upon the substance of these opinions or the outcome of the litigation.

4. The documents, data and other materials that I relied upon in forming my opinions are identified throughout my report and in Exhibit 2, attached hereto. In addition, I have relied upon my educational background and more than 15 years of experience.

III. CALL DATA

5. Counsel for Plaintiff has asked me to analyze Defendant's call detail records ("CDRs") and account data, and to provide information summarizing those records. The CDRs contain a record of each call placed on behalf of Defendant. The CDRs include, among other things, the date of the call, the dialed telephone number, the account number associated with the call, and the call disposition (whether the call was answered, busy, went to voicemail, etc.). The account data includes a list of each of the accounts managed by Defendant, and "phone fields one through ten."

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6. I have been asked to review the telephone numbers that appear in "phone fields five through ten"¹ of Defendant's account data for which phone fields one through four are also currently available, and compare fields five through ten to the telephone numbers in "phone fields one through four" to identify if, and to what extent, there is any overlap between those two groups of fields. I have then been asked to compare any telephone numbers in fields five through ten that do not overlap fields one through four against the CDRs.

7. To create the tabulations, I followed the following steps

- Import the Call Detail Records;
- Import the Account/Fields One through Ten data;
- Run a duplicates analysis to identify any overlap between telephone numbers in Fields One through Four and Fields Five through Ten and count and remove any such duplicates;
- Match Account and Telephone Number from CDR to Account data;
- Eliminate non-matched calls;
- Format a month-year date field for each call; and
- Tabulate records by month and call disposition.

8. I conducted my analysis using Stata.² Stata is commercially available (for sale) to all researchers who conduct statistical analysis, and is widely used in the profession: "Stata is distributed in more than 200 countries and is used by hundreds of thousands of professional

¹ In order to be considered a match, the call detail record must first match the account number, and then match a telephone number from fields five through ten for that account.

² <http://www.stata.com/products/>

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researchers in many fields of research."³ Stata has been used numerous times in litigation damages contexts.⁴

9. Defendant has produced a number of instances of "phone fields one through four," including as it exists currently, as it existed historically, and as part of several historical data sets. To be as conservative as possible, I have aggregated all of the available "phone fields one through four" data. Using this data, I analyzed the same Fields Five through Ten data as in my August 10, 2018 Declaration. This dataset contains 1,498,684 unique account/telephone number combinations.⁵ Of those, only 1.0% are account/telephone numbers that appear in both Fields One through Four and Fields Five through Ten. In other words, 99% of telephone numbers in Fields Five through Ten are not also contained in Fields One through Four--a total of 1,484,646 unique account/telephone numbers.

10. I have prepared such tabulations for each of three vendors making calls on behalf of Defendant. I provide a high level summary of calls and dispositions below in Tables 1-3, and provide month-by-month detail and all disposition codes in Exhibits 3-5, attached hereto.

TABLE 1.					
Calls to Fields Five through Ten, by Disposition, June 2012-May 2017, Global Connect					
Answered	Busy	Invalid	Machine	No Answer	Total ⁶
2,943,367	707,454	1,826,851	2,646,162	1,560,958	9,715,452

³ <http://www.stata.com/why-use-stata/>

⁴ See, e.g., *In re: Cellphone Termination Fee Cases*, Ayyad, et al., v. Sprint Spectrum, L.P., JCCP No. 4332, Case No. RG03-121510; *In re: ConAgra Foods Inc.*, 90 F. Supp. 3d 919, (C.D. Cal. February 23, 2015).

⁵ Where each telephone number is a valid, 10-digit, US telephone number.

⁶ Certain small disposition categories have been omitted from the table for brevity. This total includes those additional disposition categories and will exceed the sum of the categories presented. The full detail is provided in Exhibit 3.

Declaration of Colin B. Weir

November 12, 2018

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TABLE 2.					
Calls to Fields Five through Ten, by Disposition, January-October 2017, TCN					
Answered	Busy	Invalid	Machine	No Answer	Total ⁷
120,088	34,134	340,461	2,252,642	956,447	3,750,401

TABLE 3.					
Calls to Fields Five through Ten, by Disposition, June 2012-August 2017, VIC					
Answered	Busy	Invalid	Voicemail	No Answer	Total ⁸
39,935	11,757	N/A	297,038	184,846	665,181

11. As can be seen from the Tables above and the corresponding Exhibits, all three vendors placed calls to numbers located in phone fields five through ten of Defendant's account data on a regular basis, totaling more than 14-million calls, including some 3-million calls that were answered.

12. I was asked to provide subsets of this data to Anya Verkhovskaya, President of Class Experts Group, for further analysis. From the data as described above, I provided the following:

- A list of all calls placed by Global Connect to phone numbers contained in Phone Fields Five through Ten (that were not contained in Fields One through Four), that had a call disposition of "Answered," and that were at least six seconds or longer in duration;

⁷ Certain small disposition categories have been omitted from the table for brevity. This total includes those additional disposition categories and will exceed the sum of the categories presented. The full detail is provided in Exhibit 4.

⁸ Certain small disposition categories have been omitted from the table for brevity. This total includes those additional disposition categories and will exceed the sum of the categories presented. The full detail is provided in Exhibit 5.

Declaration of Colin B. Weir

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- A list of all calls placed by TCN to phone numbers contained in Phone Fields Five through Ten (that were not contained in Fields One through Four), that had a call disposition of "Answered," and that were at least six seconds or longer in duration;
- A list of all calls placed by VIC to phone numbers contained in Phone Fields Five through Ten (that were not contained in Fields One through Four), that had a call disposition of "Message - Party Connect," "Message - Hang Up," and "Message - VIC Voice Mail."

13. I understand that Ms. Verkhovskaya has analyzed the telephone numbers in each of these data sets to determine which telephone numbers were mobile telephone numbers at the time of the call, and to identify telephone numbers where none of the customary, historic users of the number matched, or were a close match to the name of debtor.⁹ Of the telephone records that I provided to Ms. Verkhovskaya, the following data reflect calls to mobile numbers with customary users other than the debtor.

TABLE 4.			
Calls to Class Members by Call Disposition			
Vendor	Disposition	Unique Phone Count	Call Count
Global Connect	Answered, ≥6 Seconds	37,674	501,043
TCN	Answered, ≥6 Seconds	8,478	31,064
VIC	Message - Hang Up	879	1,679
VIC	Message - VIC Voice Mail	153	237
VIC	Message - Party Connect	282	675

⁹ Declaration of Anya Verkhovskaya, November 12, 2018.

Declaration of Colin B. Weir

November 12, 2018

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IV. STATUTORY DAMAGES

14. Plaintiffs allege that Defendant knowingly and willfully has placed calls to individuals in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* ("TCPA").¹⁰ I have been informed by Counsel for Plaintiffs that Plaintiffs and members of the proposed classes are entitled to treble damages of up to \$1,500.00 for each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(C). Or in the alternative, Plaintiffs and members of the classes are entitled to an award of \$500.00 in statutory damages for each and every call in violation of the statute, pursuant to 47 U.S.C. § 227(b)(3)(B).¹¹

15. I also understand that the calls identified by Ms. Verkhovskaya (as summarized above in Table 4) are the calls for which Plaintiffs are seeking such statutory damages. Using these data, I have tabulated statutory damages as below in Table 5-6.

TABLE 5.			
Statutory Damages: ATDS Class			
Vendor	Call Count	Willful Damages (\$1,500)	Non-Willful Damages (\$500)
Global Connect	501,043	\$751,564,500	\$250,521,500
TCN	31,064	\$46,596,000	\$15,532,000
VIC	1,679	\$2,518,500	\$839,500
VIC	237	\$355,500	\$118,500
VIC	675	\$1,012,500	\$337,500
TOTAL	534,698	\$802,047,000	\$267,349,000

¹⁰ See, generally, Class Action Complaint, filed June 17, 2016.

¹¹ *Id.*, at 14.

Declaration of Colin B. Weir

November 12, 2018

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TABLE 6.			
Statutory Damages: Pre-Recorded/Artificial Voice Class¹²			
Vendor	Call Count	Willful Damages (\$1,500)	Non-Willful Damages (\$500)
Global Connect	501,043	\$751,564,500	\$250,521,500
VIC	1,679	\$2,518,500	\$839,500
VIC	237	\$355,500	\$118,500
VIC	675	\$1,012,500	\$337,500
TOTAL	503,634	\$755,451,000	\$251,817,000

16. I have also been asked to tabulate damages for the named Plaintiffs: Perez, McMillion, and Adekoya. I present these tabulations in Tables 7-9 below.

TABLE 7.			
Statutory Damages: Perez			
Vendor	Call Count	Willful Damages (\$1,500)	Non-Willful Damages (\$500)
Global Connect	14	\$21,000	\$7,000
Note: Call count reflects calls of Disposition Answered, ≥6 Seconds.			

TABLE 8.			
Statutory Damages: McMillion			
Vendor	Call Count	Willful Damages (\$1,500)	Non-Willful Damages (\$500)
Global Connect	2	\$3,000	\$1,000
TCN	2	\$3,000	\$1,000
Note: Call count reflects calls of Disposition Answered, for dates after February 2, 2016.			

¹² Declaration of Randall Snyder, November 12, 2018, at 20-21.

Declaration of Colin B. Weir

November 12, 2018

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TABLE 9.			
Statutory Damages: Adekoya			
Vendor	Call Count	Willful Damages (\$1,500)	Non-Willful Damages (\$500)
Global Connect	2	\$3,000	\$1,000
Note: Call count reflects calls of Disposition Answered, for dates after April 18, 2016.			

V. RESERVATION OF RIGHTS

My testimony is based upon the information and data presently available to me. I understand that discovery is ongoing. Additional, different and/or updated data may be obtained in advance of trial. I therefore reserve the right to amend or modify my testimony, and anticipate supplementing this testimony when such data becomes available.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief, and that this declaration was executed at Boston, Massachusetts, this 12th day of November, 2018.



Colin B. Weir

Exhibit 1

Statement of Qualifications
of

COLIN B. WEIR

Statement of Qualifications

COLIN B. WEIR

Colin B. Weir is Vice President at Economics and Technology, Inc. Mr. Weir conducts economic, statistical, and regulatory research and analysis, and testifies as an expert witness. Mr. Weir's work involves econometric and statistical analysis, multiple regression, surveys, statistical sampling, micro- and macroeconomic modeling, accounting and other economic analysis. Such analysis often involves analysis of databases, call detail records, and other voluminous business records. Mr. Weir is familiar with common statistical and econometric software packages such as STATA and Sawtooth Software. Mr. Weir assists with analysis of economic, statistical and other evidence; and preparation for depositions, trial and oral examinations. Mr. Weir has provided expert testimony before federal and state courts, the FCC, and state regulatory commissions, and has contributed research and analysis to numerous ETI publications and testimony at the state, federal, and international levels. Prior to joining ETI, Mr. Weir worked at Stop and Shop Supermarkets as a cash department head, grocery/receiving clerk, and price-file maintenance head.

Mr. Weir's experience includes work on a variety of issues, including: economic harm and damage calculation; liquidated damages provisions; lost profits; false claims; diminution in value; merger/antitrust analysis; Early Termination Fees (ETFs); Late Fees; determination of Federal Excise Tax burden; and development of macroeconomic analyses quantifying the economic impact of corporate actions upon the US economy and job markets.

Mr. Weir has conducted research and analysis in numerous litigation and regulatory matters on behalf of corporate, government and individual clients, including AT&T, MTS Allstream (Canada), The US Department of Justice, Office of the Attorney General of Illinois, Pennsylvania Department of Revenue, Thomas v. Global Vision, (class action litigation, Superior Court, County of Alameda), Ayyad v. Sprint (class action litigation, Superior Court, County of Alameda), Forcellati v. Hylands (class action, U.S. District Court, Central District of California), and Ebin v. Kangadis Foods (class action, U.S. District Court, Southern District of New York).

Mr. Weir holds an MBA with honors from Northeastern University. He also holds a Bachelor of Arts degree *cum laude* in Business Economics from The College of Wooster.

Mr. Weir is a member of the Boston Economic Club, a business member of the Boston Bar Association, serves on the Board of Trustees of the Waring School, and serves as the comptroller for the Sybaris Investment Partnership.

Statement of Qualifications – Colin B. Weir

Publications and Testimony of Colin B. Weir

Mr. Weir has co-authored the following:

Interoperability and Spectrum Efficiency: Achieving a Competitive Outcome in the US Wireless Market (with Lee L. Selwyn) Economics and Technology, Inc., prepared on behalf of United States Cellular Corporation, July 2012.

The Price Cap LECs’ “Broadband Connectivity Plan”: *Protecting Their Past, Hijacking the Nation’s Future* (with Lee L. Selwyn and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of United States Cellular Corporation, September 2011.

Regulation, Investment and Jobs: How Regulation of Wholesale Markets Can Stimulate Private Sector Broadband Investment and Create Jobs (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of Cbeyond, Inc., Covad Communications Company, Integra Telecom, Inc., PAETEC Holding Corp, and tw telecom inc., February 2010.

Revisiting Us Broadband Policy: How Re-regulation of Wholesale Services Will Encourage Investment and Stimulate Competition and Innovation in Enterprise Broadband Markets, (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of MTS Allstream, February 2010.

Longstanding Regulatory Tools Confirm BOC Market Power: A Defense of ARMIS (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of the AdHoc Telecommunications Users Committee, January 2010.

Choosing Broadband Competition over Unconstrained Incumbent Market Power: A Response to Bell and TELUS (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of MTS Allstream, April 2009.

The Role of Regulation in a Competitive Telecom Environment: How Smart Regulation of Essential Wholesale Facilities Stimulates Investment and Promotes Competition (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of MTS Allstream, March 2009.

Special Access Overpricing and the US Economy: How Unchecked RBOC Market Power is Costing US Jobs and Impairing US Competitiveness (with Lee L. Selwyn, Susan M. Gately, and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of the AdHoc Telecommunications Users Committee, August 2007.

The AWS Spectrum Auction: A One-Time Opportunity to Introduce Real Competition for Wireless Services in Canada (with Lee L. Selwyn and Helen E. Golding) Economics and Technology, Inc., prepared on behalf of MTS Allstream, June 2007.

Comparison of Wireless Service Price Levels in the US and Canada (with Lee L. Selwyn) Economics and Technology, Inc., prepared on behalf of MTS Allstream, May 2007.

Statement of Qualifications – Colin B. Weir

Hold the Phone! Debunking the Myth of Intermodal Alternatives for Business Telecom Users In New York (with Susan M. Gately and Lee L. Selwyn) Economics and Technology, Inc., prepared for the UNE-L CLEC Coalition, August 2005.

Mr. Weir has submitted the following testimony:

United States District Court, Central District of California, Kaylee Browning and Sarah Basile, on behalf of themselves and all others similarly situated, v. Unilever United States Inc., Case No. 8:16-cv-02210, on behalf of Bursor & Fisher, P.A., Declaration submitted on October 22, 2018; Deposition on November 1, 2018.

United States District Court, Southern District of New York, Lori Canale, individually, and on behalf of all others similarly situated, v. Colgate-Palmolive Co., Case No. 7:16-CV-03308-CS, on behalf of Bursor & Fisher, P.A., Declaration submitted on September 19, 2018.

Superior Court for the State of California, In and for the County of San Francisco, Michelle Gyorke-Takatri and Katie Silver on behalf of themselves and all others similarly situated, v. Nestlé USA, Inc. and Gerber Products Company, Case No. CGC 15-546850, on behalf of Stanley Law Group, Declaration submitted on September 7, 2018.

United States District Court, Northern District of Illinois, Eastern Division, Ryan Porter and Haarin Kwon, individually and on behalf of all others similarly situated, NBTY, Inc., United States Nutrition Inc., Healthwatchers (DE), Inc., and MET-RX Nutrition, Inc., Case No. 15-cv-11459, on behalf of Bursor & Fisher, P.A., Declaration submitted on August 15, 2018; Deposition on October 12, 2018.

Superior Court of the State of California, For The County of San Francisco, Deanna Gastelum and Heather Bryden individually and on behalf of all other persons similarly situated, v. Frontier California Inc., Case No. CGC-11-511467, on behalf of Bramson, Plutzik, Mahler and Birkhaeuser; Declaration submitted on July 31, 2018, Declaration submitted August 13, 2018.

United States District Court, For the Southern District of New York, Suzanna Bowling, individually and on behalf of all others similarly situated, v. Johnson & Johnson and McNeil Nutritionals, LLC, Case No. 1:17-cv-03982-AJN, on behalf of Bursor & Fisher, P.A., Declaration submitted on July 30, 2018, Deposition on September 6, 2018.

United States District Court, Southern District of New York, Anne De Lacour, Andrea Wright, and Loree Moran individually and on behalf of all others similarly situated, v. Colgate-Palmolive Co., and Tom's of Maine Inc., Case No. 1:16-cv-08364-RA, on behalf of Bursor & Fisher, P.A., Declaration submitted on June 15, 2018; Deposition on August 28, 2018.

Statement of Qualifications – Colin B. Weir

United States District Court, Northern District of California, San Francisco Division, *In re: Chrysler-Dodge-Jeep EcoDiesel® Marketing, Sales Practices, and Products Liability Litigation Dorun Bali, et al., v. Fiat Chrysler Automobiles N.V., FCA US LLC, Sergio Marchionne, VM Motori S.p.A., VM North America, Inc., Robert Bosch GmbH, Robert Bosch LLC, and Volkmar Denner*, Case No. MDL 2777-EMC, on behalf of Lieff Cabraser Heimann & Bernstein, Declaration submitted on June 6, 2018, Deposition on July 18, 2018, Reply Declaration submitted on September 4, 2018.

United States District Court, Northern District of California, *Stephen Hadley, on behalf of himself, all others similarly situated, and the general public, v. Kellogg Sales Company*, Case No. 5:16-cv-04955-LHK-HRL, on behalf of Law Offices of Jack Fitzgerald, PC, Declaration submitted April 30, 2018, Deposition on May 31, 2018; Reply Declaration submitted June 25, 2018; Declaration submitted on September 20, 2018; Deposition on September 28, 2018.

United States District Court, Northern District of Illinois, Eastern Division, *Teresa Elward, Dennis Keesler, Leasa Brittenham, Kathy Beck and Nathaniel Beck, Angelia East, Sarah LaVergne, Tony And Lauren Fitzgerald, Gregory Gray, Bethany Williams, John McLaughlin, Stacy Cisco, and William Ferguson and Cheryl Ferguson, individually and on behalf of all others similarly situated, v. Electrolux Home Products, Inc.*, Case No. 1:15-cv-09882-JZL, on behalf of Greg Coleman Law, Declaration submitted April 20, 2018; Reply Declaration submitted on July 13, 2018; Deposition on August 17, 2018.

United States District Court for the Northern District of California, *Jackie Fitzhenry-Russell, an individual, on behalf of herself, the general public and those similarly situated v. The Coca Cola Company, and Does 1-50*, Case No. 5:17-CV-00603-EJD, on behalf of Gutride Safier, LLP, Declaration submitted April 16, 2018; Deposition on October 3, 2018.

United States District Court for the Southern District of New York, *Josephine James Edwards, individually and on behalf of all others similarly situated, v. Hearst Communications, Inc.*, Case No. 15-cv-09279-AT, on behalf of Bursor & Fisher, P.A., Declaration submitted April 16, 2018; Deposition on June 7, 2018.

United States District Court, Northern District of California, *Jackie Fitzhenry-Russell, Robin Dale, and Gegham Margaryan, as individuals, on behalf of themselves, the general public and those similarly situated, v. Dr. Pepper Snapple Group, Inc., Dr Pepper/Seven Up, Inc., and Does 1-50*, Case No. 5:17-cv-00564-NC (lead); Case No. 5:17-cv-02341-NC (consolidated); Case No. 5:17-cv-04435-NC (consolidated), on behalf of Gutride Safier, LLP, Declaration submitted April 9, 2018; Deposition on April 19, 2018; Reply Declaration submitted June 6, 2018.

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United States District Court, Northern District of California, Jamie Pettit, an individual, on behalf of herself, the general public and those similarly situated, v. Procter & Gamble Company; and Does 1 Through 50, Case No. 15-cv-02150-RGS, on behalf of Gutride Safier LLP, Declaration submitted February 14, 2017; Deposition on March 3, 2017; Reply Declaration submitted May 11, 2017.

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Statement of Qualifications – Colin B. Weir

Illinois Commerce Commission, Illinois Bell Telephone Company Annual Rate Filing for Non-Competitive Services Under an Alternative Form of Regulation, Ill. C. C. Docket No. 08-0249, on behalf of the People of the State of Illinois, Declaration filed May 2, 2008.

Federal Communications Commission, Qwest Petition for Forbearance Under 47 U.S.C. §160(c) From Title II and *Computer Inquiry Rules* with Respect to Broadband Services, Petition of AT&T Inc, For Forbearance Under 47 U.S.C. §160(c) From Title II and *Computer Inquiry Rules* with Respect to Broadband Services, Petition of BellSouth Corporation For Forbearance Under 47 U.S.C. §160(c) From Title II and *Computer Inquiry Rules* with Respect to Broadband Services, Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. §160(c) From Application of *Computer Inquiry* and certain Title II Common Carriage Requirements; WC Docket Nos. 06-125 and 06-147, on behalf of the AdHoc Telecommunications Users Committee, Declaration filed October 9, 2007.

Superior Court of California, County of Alameda, *James Thomas, on behalf of themselves, the general public, and all those similarly situated, v. Global Vision Products, Inc., Anthony Imbriolo, Derrike Cope, David L. Gordon, Powertel Technologies, Inc., Craig Dix, Henry Edelson and Robert Debenedictis*, Case No. RG03-091195, on behalf of the Law Offices Of Scott A. Bursor, Declaration filed January 5, 2007; Deposition on November 13, 2007; Oral testimony and cross-examination on December 19, 2007; Oral testimony on January 9, 2008.

Mr. Weir has served as a consultative expert in numerous proceedings that did not result in testimony, and has contributed research and analysis to numerous additional publications and testimony at the state, federal, and international levels.

Exhibit 2

Documents Reviewed

- Class Action Complaint, filed June 17, 2016
- 47 U.S. Code 227
- May 30, 2017 Declaration of Randall Snyder
- October 16, 2017 Declaration of Randall Snyder
- November 12, 2018 Declaration of Randall Snyder
- November 12, 2018 Declaration of Anya Verkhovskaya
- Deposition of Steven Kiser, April 13, 2017
- GC Call Detail Records
- TCN Call Detail Records
- VIC Call Detail Records
- Defendant's Account Data (including account number and fields one through ten)
- TransUnion reverse call data
- North American Numbering Plan Administration, valid US NPA, NXX codes

<https://www.nationalnanpa.com/>

Exhibit 3

Global Connect Data

Global Connect							
Month	Answered	Busy	Fax	Invalid	Machine	No Answer	Total
June-2012	14,611	4,767	207	12,282	17,236	12,886	61,989
July-2012	31,278	9,158	556	28,415	32,633	24,951	126,991
August-2012	33,046	5,408	582	34,879	29,697	21,625	125,237
September-2012	23,825	1,607	360	25,844	19,652	12,600	83,888
October-2012	32,724	2,986	458	37,359	28,693	22,651	124,871
November-2012	29,915	3,063	445	33,957	25,421	18,614	111,415
December-2012	24,459	2,441	587	26,282	21,997	12,132	87,898
January-2013	13,868	1,490	274	15,296	12,218	7,062	50,208
February-2013	26,809	3,096	705	27,853	23,394	14,291	96,148
March-2013	23,539	3,535	746	21,309	21,417	11,014	81,560
April-2013	8,601	797	228	7,411	8,096	4,559	29,692
May-2013	27,193	2,760	646	28,253	24,201	12,426	95,479
June-2013	23,538	4,139	567	23,087	18,877	11,260	81,468
July-2013	23,013	4,218	571	24,530	20,960	11,253	84,545
August-2013	29,841	11,174	694	23,335	26,939	17,946	109,929
September-2013	26,420	9,985	751	18,593	25,620	16,365	97,734
October-2013	26,817	7,732	626	15,854	24,416	14,264	89,709
November-2013	32,237	8,820	750	24,558	27,661	13,535	107,561
December-2013	22,022	4,663	383	21,279	20,356	15,363	84,066
January-2014	31,583	6,481	654	30,113	29,527	12,754	111,112
February-2014	42,151	8,195	730	41,807	39,756	18,212	150,851
March-2014	59,395	42,405	839	49,665	47,954	34,496	234,754
April-2014	77,626	22,283	1,181	53,636	57,841	61,522	274,089
May-2014	52,402	7,576	669	27,577	34,296	32,277	154,797
June-2014	49,055	14,495	627	26,467	36,314	23,128	150,086
July-2014	60,244	14,277	943	46,248	49,591	24,745	196,048
August-2014	54,190	14,695	1,006	42,650	46,475	34,512	193,528
September-2014	27,705	17,712	449	47,691	30,058	139,108	262,723
October-2014	48,209	16,012	666	25,834	42,608	34,762	168,091
November-2014	50,568	16,134	605	27,090	46,336	27,609	168,342
December-2014	69,028	19,564	855	38,085	61,743	30,694	219,969
January-2015	68,502	31,277	766	44,650	65,318	32,311	242,824
February-2015	67,008	15,191	665	37,582	58,496	35,843	214,785
March-2015	65,178	12,625	328	38,492	51,555	36,754	204,932
April-2015	55,953	7,776	463	36,488	56,902	21,910	179,492
May-2015	42,286	9,102	316	28,439	42,541	17,589	140,273
June-2015	46,782	10,538	200	34,823	50,190	22,482	165,015
July-2015	57,727	10,395	288	38,340	59,410	28,579	194,739
August-2015	58,678	37,575	486	28,856	48,221	33,095	206,911
September-2015	70,659	35,835	431	25,264	57,842	34,149	224,180
October-2015	65,651	18,827	488	25,874	55,650	34,611	201,101
November-2015	62,155	13,110	694	26,470	46,243	31,394	180,066
December-2015	60,969	7,263	631	29,160	48,359	28,421	174,803
January-2016	47,092	4,971	379	20,465	40,146	20,321	133,374
February-2016	52,121	5,832	302	22,398	50,325	24,401	155,379

Global Connect							
Month	Answered	Busy	Fax	Invalid	Machine	No Answer	Total
March-2016	67,925	7,206	385	33,440	59,726	27,782	196,464
April-2016	66,729	7,075	268	32,142	67,426	23,605	197,245
May-2016	34,557	3,793	153	14,643	35,706	13,285	102,137
June-2016	27,899	3,807	118	12,293	25,684	9,775	79,576
July-2016	77,166	18,461	369	41,092	72,247	32,613	241,948
August-2016	121,338	25,585	693	60,597	107,787	47,151	363,151
September-2016	115,107	22,572	625	54,093	106,116	52,478	350,991
October-2016	99,517	13,176	485	41,264	91,669	40,396	286,507
November-2016	109,307	16,158	546	53,596	106,566	47,856	334,029
December-2016	95,463	17,488	422	44,187	87,425	37,108	282,093
January-2017	94,461	26,125	350	41,275	90,011	32,880	285,102
February-2017	71,598	22,970	273	34,005	67,155	30,150	226,151
March-2017	42,288	10,515	164	18,495	41,028	14,141	126,631
April-2017	2,982	507	11	1,117	3,853	1,117	9,587
May-2017	357	31	1	72	582	145	1,188
Total	2,943,367	707,454	30,660	1,826,851	2,646,162	1,560,958	9,715,452

Exhibit 4

TCN Data

Month	Answered	Answered Hangup	Answered Linkcall	Answered Linkcall Abandoned	TCN			Invalid Unknown NPA-NXX	Machine Delivered	Machine Hangup	Machine Undeliverable	No Answer	Total
					Busy	Invalid							
January-2017	1,576	0	82	9	565	4,641		37	0	30,255	0	11,778	48,943
February-2017	5,852	0	196	32	1,556	13,491		59	0	77,474	0	33,510	132,170
March-2017	9,872	1	688	186	2,250	24,026		93	0	154,907	0	66,706	258,729
April-2017	17,853	11	1,162	247	3,407	41,102		281	0	282,662	0	126,349	473,074
May-2017	16,742	8	1,655	261	2,986	43,941		174	0	285,125	0	118,961	469,853
June-2017	18,691	4	1,088	150	2,883	50,206		152	1,066	312,006	784	130,888	517,918
July-2017	17,426	11	1,827	127	2,911	45,724		177	4,428	305,125	3,191	125,980	506,927
August-2017	10,557	0	2,965	127	4,990	42,097		307	3,236	270,665	2,218	113,182	450,344
September-2017	11,123	2	3,183	148	6,300	39,468		305	7,267	273,844	5,290	113,158	460,088
October-2017	10,396	0	2,051	76	6,286	35,765		325	608	260,579	334	115,935	432,355
Total	120,088	37	14,897	1,363	34,134	340,461		1,910	16,605	2,252,642	11,817	956,447	3,750,401

Exhibit 5

VIC Data

Month	3 Tone Intercept	Area Code Changed	Busy	Call Error	DIAL NEW ENTRY	Fax	Hang Up Salutation	Link Back Transfer	Message - Hang Up	Message - Party Connect	VIC		On Hold Hang Up	Other	Party Connect	Party Transfer Hang Up	Phone In The Skip Table	UNKNOWN DIRECTIVE 8454	Unable To Transfer Party	Voice Mail - Hang Up		
											Message - Mail	No Answer								No Ring	Total	
June-2012	435	0	187	0	0	115	0	0	138	0	0	1,294	24	232	45	390	0	0	102	237	2,329	5,528
July-2012	795	0	291	0	0	119	0	0	168	0	0	2,030	23	314	46	409	0	0	97	326	2,918	7,536
August-2012	954	0	452	1	0	215	0	1	278	16	17	2,764	18	392	99	602	0	0	18	992	3,007	9,826
September-2012	307	0	116	1	0	46	0	2	86	39	76	729	9	154	33	205	0	0	20	190	1,299	3,312
October-2012	861	0	309	0	0	143	0	0	221	0	0	1,724	17	249	59	400	0	0	16	219	2,679	6,897
November-2012	797	0	265	1	0	127	0	1	179	47	0	1,912	11	194	74	334	2	0	4	371	2,436	6,755
December-2012	948	0	353	1	0	193	0	2	322	29	0	3,313	19	225	71	388	0	2	38	888	2,946	9,738
January-2013	1,911	0	720	0	102	447	0	0	467	0	0	4,625	41	341	126	936	8	0	1,802	950	4,632	17,108
February-2013	920	0	411	0	0	183	0	0	215	0	0	2,497	22	320	67	465	2	0	20	1,404	3,483	10,009
March-2013	745	0	383	0	0	207	0	0	204	0	0	2,119	44	299	91	407	0	0	25	1,589	3,571	9,684
April-2013	679	0	341	0	0	161	0	0	276	0	0	2,326	30	273	109	435	0	0	32	1,550	3,537	9,749
May-2013	591	0	297	0	0	143	0	0	182	0	0	1,661	20	223	62	323	1	0	10	670	2,494	6,677
June-2013	771	0	388	0	0	132	0	0	192	0	0	2,901	20	272	54	437	0	0	6	649	2,716	8,538
July-2013	189	0	142	0	0	34	0	0	54	0	0	651	6	72	51	113	0	0	3	48	1,088	2,451
November-2013	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	0	0	6
December-2013	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	29	0	0	29
January-2014	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8	0	0	8
February-2014	971	0	498	0	0	213	0	0	298	0	0	2,405	40	315	92	799	0	0	19	229	4,027	9,906
March-2014	323	0	278	0	0	88	0	0	102	0	0	770	17	137	61	395	0	0	11	152	2,137	4,471
April-2014	724	0	333	0	0	164	0	0	176	0	0	1,651	42	225	73	744	0	0	12	198	3,457	7,799
May-2014	331	0	302	0	0	114	0	0	115	0	0	1,487	52	149	35	459	0	0	16	393	2,780	6,233
June-2014	548	0	788	0	0	330	0	0	224	0	0	2,299	48	196	138	904	0	0	3	364	4,980	10,822
July-2014	333	0	207	0	0	182	0	0	136	0	0	1,100	29	117	31	373	0	0	4	325	2,582	5,419
August-2014	739	0	358	0	0	200	0	0	174	0	0	1,570	18	200	95	522	0	0	5	180	3,036	7,097
September-2014	405	0	224	0	0	171	0	0	206	0	0	1,991	182	157	125	352	0	0	10	138	2,076	6,037
October-2014	1,476	0	348	1,481	0	620	91	71	393	1,153	2,575	5,554	8	134	306	1,047	0	0	16	87	5,151	20,511
November-2014	536	0	180	350	0	432	27	22	166	352	800	3,208	1	177	174	657	1	0	10	341	5,064	12,498
December-2014	68	0	116	66	0	171	3	2	150	46	89	2,241	1	119	203	604	1	0	12	857	4,725	9,474
January-2015	41	0	75	0	0	135	0	0	116	0	0	2,049	0	105	143	455	0	0	11	621	3,497	7,248
February-2015	36	0	58	0	0	141	0	0	149	0	0	2,373	4	111	123	496	0	0	0	397	3,633	7,521
March-2015	120	0	81	145	0	145	15	8	179	164	367	2,562	6	126	122	607	0	0	5	104	4,031	8,787
April-2015	69	0	59	54	0	153	2	7	161	104	184	1,952	3	109	70	455	0	0	20	416	3,196	7,014
May-2015	33	3	50	0	0	102	0	0	116	0	0	1,823	3	112	62	486	0	0	14	465	3,458	6,727
June-2015	40	0	70	0	0	122	0	0	124	0	0	2,656	2	133	181	456	0	0	13	668	3,384	7,849
July-2015	91	1	79	0	0	215	0	0	205	0	0	3,926	7	144	121	802	0	0	22	521	4,930	11,064
August-2015	32	0	53	0	0	105	0	0	97	0	0	1,412	1	84	37	329	0	0	16	422	2,356	4,944
September-2015	72	2	107	0	0	239	0	0	228	0	0	3,167	4	167	95	691	0	0	54	428	5,098	10,352
October-2015	77	0	94	0	0	216	0	0	242	0	0	3,920	1	140	98	620	0	0	23	1,264	5,564	12,259
November-2015	77	1	105	0	0	183	0	0	183	0	0	3,145	2	113	87	610	0	0	10	584	5,029	10,129
December-2015	123	0	209	0	0	313	0	0	288	0	0	6,236	1	231	194	1,045	0	0	14	717	7,856	17,227
January-2016	65	0	127	0	0	147	0	0	217	0	0	3,083	3	201	254	675	3	0	16	1,568	5,692	12,051
February-2016	78	0	171	0	0	225	0	0	299	0	0	4,911	3	316	159	1,347	1	1	78	1,399	8,853	17,841
March-2016	63	0	111	0	0	141	0	0	318	0	0	3,912	4	264	101	1,116	4	0	29	2,571	9,528	18,162
April-2016	121	0	177	0	0	212	0	0	407	0	0	5,664	10	419	931	2,001	1	0	4	2,210	13,500	25,657
May-2016	133	0	160	0	0	262	0	0	416	0	0	7,316	21	430	155	1,935	1	0	5	1,923	13,845	26,602
June-2016	132	0	208	0	0	316	0	0	445	0	0	7,585	14	474	234	1,755	2	0	33	968	12,946	25,112
July-2016	155	0	159	0	0	354	0	0	336	0	0	6,711	5	323	297	1,357	3	0	17	847	10,679	21,243
August-2016	201	0	200	0	0	358	0	0	435	0	0	11,479	8	445	347	1,577	2	0	50	2,009	13,279	30,390
September-2016	292	0	334	0	0	455	0	0	629	0	0	12,442	9	450	3,170	2,365	0	0	31	2,293	18,810	41,280
October-2016	271	0	253	0	0	357	0	0	621	0	0	10,596	7	394	3,734	2,253	4	0	35	3,481	20,526	42,532
November-2016	204	0	227	0	0	250	0	0	496	0	0	8,714	5	282	2,711	1,559	2	0	65	1,800	14,216	30,531
December-2016	53	0	55	0	0	82	0	0	215	0	0	2,609	5	132	407	468	0	0	40	741	6,989	11,796
January-2017	142	0	145	0	0	226	0	0	364	0	0	6,188	11	292	576	971	0	0	19	1,904	9,016	19,854
February-2017	60	0	89	0	0	78	0	0	210	0	0	3,089	2	236	177	684	0	0	54	2,733	6,286	13,698
March-2017	12	0	14	0	0	7	0	0	58	0	0	499	0	58	33	120	0	0	19	530	1,691	3,041
April-2017	0	0	0	0	0	0	0	0	0	0	0	5	0	0	0	0	0	0	41	0	0	46
May-2017	0	0	0	0	0	0	0	0	0	0	0	0	0	0	25	0	0	0	0	1	0	26
June-2017	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	57	0	0	57
July-2017	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	21	0	0	21
August-2017	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	2
Total	20,150	7	11,757	2,100	102	10,489	138	116	12,676	1,950	4,108	184,846	883	11,777	16,964	39,935	38	3	3,172	46,932	297,038	665,181

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ,
on Behalf of Themselves and all Others
Similarly Situated,

Case No. 3:16-CV-03396

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

CLASS MEMBER DATA TABULATION REPORT OF ANYA VERKHOVSKAYA

I, Anya Verkhovskaya, hereby certify as follows:

1. I am the President of Class Experts Group, LLC (“CEG”). CEG offers litigation support services with a focus on data management and data analysis, particularly in the area of Telephone Consumer Protection Act, class administration and consumer class action litigation support services.

2. I have more than 19 years of experience serving as a data analysis in various class action matters, including hundreds of TCPA, consumer, employment, antitrust, securities fraud, ERISA, civil rights, discrimination and other claims. My resume is attached hereto as Exhibit A.

3. I have extensive experience identifying and locating class members in order to administer some of the largest and most complex class actions and other administration matters, involving all aspects of direct, media and third-party notice programs, data management, claims administration and settlement fund distribution, both domestically and internationally.

1 4. In my professional experience, I have personally analyzed, overseen and
2 directed pre-class-certification data analysis engagements, including but not limited to the
3 analysis of call records and other large-volume data sets.

4 5. Specifically, during my professional career, I have acted as project director in
5 dozens of class actions brought under the TCPA and other state statutes protecting telephone
6 related consumer privacy and other laws. As a result, I am extremely familiar with the
7 various methodologies used to perform reliable call record analysis.

8 6. Plaintiff has retained me at an hourly rate of \$525.00 an hour.

9 7. I reserve the right to amend this Class Member Data Tabulation Report should
10 additional information or data become available.

11
12 **General Information Regarding Data Analysis**

13 8. In cases brought under the Telephone Consumer Protection Act (TCPA),
14 47 U.S.C. § 227, I routinely analyze call records to identify class members. As part of this
15 analysis, I regularly partner with established and reputable data vendors, such as Tel-Lingua,
16 LexisNexis, Nexxa Group, Inc. (“Nexxa”), Microbilt Corp., TransUnion, and others
17 (the “Data Processors”).

18 9. The Data Processors are able to provide reliable information via access to
19 numerous records and sources. *See* Supplemental Declaration of Randall A. Snyder, at ¶¶ 83-
20 101.

21 10. I regularly use these Data Processors in coordinating data analysis prior to class
22 certification and in administering class action settlements, a context in which maximum
23 accuracy and reliability are critical.
24
25
26
27

1 11. Interactive Marketing Solutions (“IMS”) provides access to the wireless block
2 file, landline-to-wireless and wireless-to-landline ported numbers files, and audit file.

3 12. The Data Processors can provide information via access to numerous records
4 and sources, including, but not limited to, whether certain telephone numbers were cellular as
5 of a given timeframe and also the names and addresses of the customary users of those
6 telephone numbers as of a given timeframe.

7 13. I regularly use the Data Processors in coordinating data analysis prior to class
8 certification and in administering class action settlements, a context in which maximum
9 accuracy and reliability is critical.

10 **Specific Information Regarding Data Analysis**

11 **Initial Processing**

12 14. Plaintiffs’ counsel retained me to tabulate call records pursuant to certain
13 parameters they set forth. The parameters for the tabulation began with the following:

- 14 a. Identify records within the source files: GC_calls2; TCN_calls-2; and
15 VIC_calls-2 (the “Source Data”);
16 b. Exclude records that are exact duplicate records;
17 c. Exclude records without a full 10-digit telephone number;
18 d. Exclude records with area codes 800, 833, 844, 855, 866, 877, 888 or
19 area codes not between 201-989; and
20 e. Excluded records that were outside of Class Period 6/17/2012 -
21 3/8/2018.

22 15. The tabulation in Paragraph 14 resulted in a remaining 3,081,275 telephone
23 calls to 184,621 unique telephone numbers.
24

1 Wireless Processing

2 16. I next tabulated the telephone numbers remaining to find the telephone numbers
3 that were wireless at the time of the calls made to them.

4 17. The methodology of utilizing the wireless block and ported telephone numbers
5 is a very standard process that has been approved by many courts in various cases.

6 18. In order to identify telephone numbers that were called when they were wireless
7 I utilized the standard protocol of cross-referencing the relevant telephone numbers against
8 the IMS wireless block, landline-to-wireless, and wireless-to-landline ported telephone
9 numbers and audit files (the “IMS Files”).
10

11 19. In order to complete this analysis, I cross-referenced the telephone numbers and
12 timeframe of calls thereto, against the IMS Files. Doing so, I was able to find which
13 telephone numbers had been wireless at the time of the calls. There were 92,766 telephone
14 numbers which had been wireless at the time of the calls (the “Wireless Numbers”) and
15 received 1,301,111 telephone calls.
16

17 Reverse-Append of Name and Address

18 20. I next tabulated the “match” or “no-match” status of the historical users of the
19 92,766 Wireless Numbers. To do this, I compared the customary user names to the intended
20 recipient names (the names on the debt accounts).

21 21. In similar cases, I have sought to identify, within a historical timeframe, the
22 names and addresses of customary users of the telephone numbers. I submitted a file of
23 92,766 Wireless Numbers to the LexisNexis online batch interface from which a custom data
24 process can be performed. The file is then processed by LexisNexis and the output was
25 posted by LexisNexis to the batch interface system for download by CEG (the “Output”).
26
27

Reverse-append through LexisNexis had 84,944 telephone numbers' customary user names appended through this process.

22. In some instances, LexisNexis did not return any name(s)/address(es) for a telephone number. These telephone numbers are categorized as "No Append."

23. After the LexisNexis reverse-append process, I performed secondary reverse-append via TransUnion for those records that did not have results from LexisNexis, "No Append" records.

24. Similar to the LexisNexis reverse-append process, TransUnion also provides reliable customary user names and address data. 6,378 telephone numbers had customary user names appended through this process.

25. There were 1,444 telephone numbers which did not have names appended through primary or secondary append processes. It would be possible to conduct tertiary or quaternary append processes, if requested.

Analysis of Appended Name Versus Intended Name "Match" or "No-match"

26. Of the 91,322 telephone numbers with names appended, 40,420 telephone numbers were identified as having a customary user(s), at the time of the calls, whose name(s) do(es) not "match" to the Source Data name (either as an exact match, a fuzzy match, or apparent marriage-name-change match) (the "No Match Numbers").

27. There were 50,902 telephone numbers where at least one or more of the customary user names did "match" to the Source Data name for the relevant timeframe (the "Match Numbers").

28. Because LexisNexis/TransUnion ("LN/TU") list users of a phone number for the period searched, many of the telephone numbers searched returned names of multiple

users. If any of the listed users matched the Source Data, those numbers were considered a “match.”

29. Below is an example of data analysis performed for an example record with an individual named “Les Johns” as the intended recipient.

LN/TU Start Date	LN/TU End Date	LN/TU First Name	LN/TU Last Name	Source Data Name
20111021	20181107	LES	JOHNS	<i>Les Johns</i>
20111021	20181107	MIKE	JOHNS	<i>Les Johns</i>

30. In the example LexisNexis/TransUnion shows that for the timeframe, Les was listed as a customary user of the telephone number, in addition to Mike Johns.

31. Because the Source Data name matches one of the LexisNexis/TransUnion customary user names during the same time period as the calls, this telephone number would be a “match.”

32. In contrast, below is an example of data analysis for a telephone number that has a customary user name appended that does not match the Source Data. Here, “Kim Kuehl” was the intended recipient.

LN/TU Start Date	LN/TU End Date	LN/TU First Name	LN/TU Last Name	Source Data Name
20010221	20171030	JAN	LIEBE	<i>Kim Kuehl</i>

33. In the example LexisNexis/TransUnion shows that for the timeframe there is a customary user Jan Liebe. Therefore, this telephone number would not be considered a “match.”

34. Table 1 below outlines results for “No Match Numbers” broken down by unique telephone numbers, number of calls those telephone numbers received, per Source Data File,

per disposition.

Table 1

Source File	Disposition	Unique Phone Count	Call Count
GC_calls2	answered	37,674	501,043
	Message - Hang Up	0	0
	Message - VIC Voice Mail	0	0
	Message - Party Connect	0	0
TCN_calls-2	answered	8,478	31,064
	Message - Hang Up	0	0
	Message - VIC Voice Mail	0	0
	Message - Party Connect	0	0
VIC_calls-2	answered	0	0
	Message - Hang Up	879	1,679
	Message - VIC Voice Mail	153	237
	Message - Party Connect	282	675

Email Address Append

35. For the telephone numbers identified as “No Match Numbers” I coordinated a reverse-append process through TransUnion to identify email addresses.

36. Email addresses were identified for users of 27,185 telephone numbers.

37. Of the 13,235 telephone numbers without identified email addresses, 8,966 have full or partial mailing addresses. Of the 40,420 No Match telephone numbers, full or partial mailing addresses were located for users of 35,126 of those telephone numbers.

38. The process by which cellular telephone numbers are identified is routine, and I have regularly coordinated this process for both litigated classes and settlement classes. A listing of representative cases where the cellular-identification process was used in a Court-approved setting (whether certified class or settlement class) is attached as Exhibit B.

39. Similarly, the process by which I identify the historical names and addresses of

1 users of telephone numbers is routine, and I have regularly coordinated this process for both
2 litigated classes and settlement classes. A listing of several cases where this process was used
3 in a Court-approved setting is attached as Exhibit C.
4

5 Executed at Milwaukee, Wisconsin, this November 12, 2018.
6

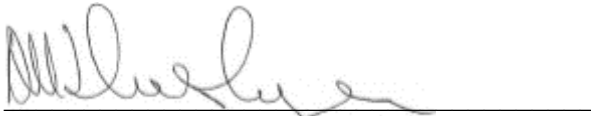
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9 _____
10 Anya Verkhovskaya
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EXHIBIT A

ANYA VERKHOVSKAYA

President

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Anya Verkhovskaya is the President of Class Experts Group, LLC, a boutique firm which offers litigation support services with focus on data and expert services in the area of Telephone Consumer Protection Act (TCPA), class notice, and consumer class action support services.

Verkhovskaya has extensive experience administering some of the largest and most complex class action settlements in history, involving all aspects of direct, media and third party notice programs, data management, claims administration and settlement fund distribution.

Verkhovskaya has been a pioneer in class member identification and location in TCPA and other consumer cases for purposes of class certification and effectuating notice programs. Verkhovskaya regularly provides opinions and testimony concerning ascertainability, class certification, notice adequacy and settlement issues in connection with TCPA matters as well as a variety of other types of class actions.

Verkhovskaya has directed data analysis in connection with notice and/or settlement administration in hundreds of consumer, TCPA, civil rights, insurance, antitrust, ERISA, securities, employment, human rights, environmental and other types of class action and Securities and Exchange Commission (SEC) fairness actions, including, but not limited to, the following cases:

- *Ace Marine Rigging & Supply, Inc. v. Virginia Harbor Services, Inc. et al.*, No. SACV1100436-GW (FFMx), United States District Court, Central District of California
- *Acevedo v. Lawyers Title Insurance Corporation*, Case No. 03-CH-07718, Circuit Court of Cook County, Illinois, County Department, Chancery Division
- *In re ACS Shareholders Litigation*, Master File No. 3:06-CV-1592-M, United States District Court, Northern District of Texas, Dallas Division

- *In re Adolor Corporation Shareholders Litigation*, C.A. No. 6997-VCN, Court of Chancery of the State of Delaware
- *In re Affiliated Computer Services ERISA Litigation*, Master File No. 3:06-CV-1592-M, Northern District of Texas, Dallas Division
- *In re AIG ERISA Litigation*, Master File No.: 04-CV-9387 (JES) (AJP), United States District Court, Southern District of New York
- *In re AirGate PCS, Inc. Securities Litigation*, Civil Action No.: 1:02-CV-1291-JOF, United States District Court, Northern District of Georgia, Atlanta Division
- *Akins v. Worley Catastrophe Response, LLC*, Civil Action No. 12-2401, United States District Court, Eastern District of Louisiana
- *Alakayak v. All Alaskan Seafoods, Inc.*, Case No. 3AN-95-4676 CIV, Superior Court for the State of Alaska, Third Judicial District at Anchorage
- *Allen v. HealthPort Technologies, LLC*, Case No. 12-CA-013154, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida General Civil Division
- *Alper v. Warnock Ford, Inc.*, Docket No.: MRS-L-1644-10, Superior Court of New Jersey, Morris County
- *Altier v. Worley Catastrophe Response, LLC*, Civil Action No. 11-00241, United States District Court, Eastern District of Louisiana
- *In re American Italian Pasta Company Securities Litigation* (AIPC and Ernst Settlements), Consolidated Civil Action No. 05-CV-0725-W-ODS, United States District Court for the Western District of Missouri, Western Division
- *In re Andrx Corporation, Inc., Taztia™ XT Securities Litigation*, CASE NO.: 02-60410, United States District Court, Southern District of Florida
- *Arias v. Award Homes, Inc.*, Case No. M54183, Superior Court of California, County of Monterey
- *Arteaga v. MODA Furniture, Inc.*, Docket No: L-000980-05, Superior Court of New Jersey, Morris County
- *In re Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*, MDL 1374, United States District Court, Southern District of New York

- *In re Atlas Energy, Inc. Shareholders Litigation*, C.A. No. 5990-VCL, Court of Chancery, State of Delaware
- *Austrian Banks Holocaust Litigation*, Case Nos. 01-3017, 01-3019, 01-3024, 01-3025, United States District Court for the Southern District of New York
- *Balschmitter v. TD Auto Finance LLC*, 2:2013cv01186, United States District Court, Eastern District of Wisconsin
- *Baptista v. Mutual of Omaha Insurance Co.*, CA 10-467 ML, United States District Court, District of Rhode Island
- *Bauman v. Superior Financial Corp.*, Civ. Action No. 4-01-CV-00756 GH, United States District Court, Eastern District of Arkansas, Western Division
- *In re Bear Stearns Companies, Inc. ERISA Litigation*, Case No. 08-MDL-1963, United States District Court, Southern District of New York
- *In re Beazer Homes USA, Inc. ERISA Litigation*, Civil Action No. 1:07-CV-00952 (RWS), United States District Court for the Northern District of Georgia, Atlanta Division
- *In re Beckman Coulter, Inc. Securities Litigation*, Case No.: 8:10-cv-1327-JST (RNBx), United States District Court, Central District of California
- *Benzion v. Vivint, Inc.*, Case No. 12-CV-61826-WJZ, United States District Court, Southern District of Florida, Fort Lauderdale Division
- *In re BigBand Networks, Inc. Securities Litigation*, Master File No. 07-CV-5101 SBA, United States District Court, Northern District of California, Oakland Division
- *In re BISYS Securities Litigation*, Civil Action No. 04-CV-3840 (JSR), United States District Court, Southern District of New York
- *Black v. Metso Paper USA, Inc.*, Civil Action No. 3:05-CV-1951, United States District Court for the Middle District of Pennsylvania
- *Blanco v. KeyBank USA, N.A.*, Case No.: 1-03-CV-524, United States District Court, Northern District of Ohio, Eastern Division
- *Board of Commissioners of the Port of New Orleans v. Virginia Harbor Services Inc.*, No. SACV11-00437-GW (FFMx)

- *Bosland v. Warnock Dodge, Inc.*, Docket No.: MRS-L-844-06, Superior Court of New Jersey, Morris County
- *In re BP Prudhoe Bay Royalty Trust Securities Litigation*, Case No. C06-1505 MJP, United States District Court, Western District of Washington at Seattle
- *Bragg v. Bill Heard Chevrolet, Inc.-Plant City*, Case No. 8:02-CV-609-T-30EAJ, United States District Court, Middle District of Florida, Tampa Division
- *Brattain v. Richmond State Hospital*, Cause No. 49D11-0108-CP-1309, Cause No. 49D110108-CP-1309, Marion Superior Court, County of Marion, State of Indiana
- *Brey Corp. v. Life Time Improvements, Inc.*, Civil Action No. 349410-V, Circuit Court for Montgomery County, Maryland
- *Brieger v. Tellabs, Inc.*, Case No. 1:06-cv-1882, United States District Court, Northern District of Illinois, Eastern Division
- *Broad St. Partners Fund v. Dods*, Case No. 2011 CH 001505, State of Illinois, County of Du Page, Circuit Court of the Eighteenth Judicial Circuit
- *Brown v. Hayt, Hayt & Landau, LLC*, Docket No.: L-7042-07, Superior Court of New Jersey, Essex County
- *Brumfield v. Countrywide Home Loans, Inc.*, 1:08-CV-93-HSO-JMR, Mississippi Southern District Court
- *Burns v. First American Bank*, Case No. 04 C 7682, United States District Court for the Northern District of Illinois, Eastern Division
- *In re Calpine Corporation ERISA Litigation*, Master File No. C 03-CV-1685 (SBA), United States District Court, Northern District of California, Oakland Division
- *Canning v. Concord EFS, Inc.*, Docket No. L-6609-02, Superior Court of New Jersey, Law Division: Camden County
- *Capovilla v. Lone Star Technologies, Inc.*, Cause No. 07-02979, District Court of Dallas County, Texas, 14th Judicial District
- *In re Cardinal Health, Inc. ERISA Litigation*, No. C2-04-643 (ALM), United States District Court, Southern District of Ohio, Eastern Division

- *Carlson v. C.H. Robinson Worldwide, Inc.*, Civil Action No. CV 02-3780, United States District Court for the District of Minnesota
- *Carlson v. State of Alaska, Commercial Fisheries Entry Commission*, Case No. 3AN-845790 CI, Superior Court for the State of Alaska, Third Judicial District at Anchorage
- *In re Cbeyond, Inc. Securities Litigation*, Civil Action No. 1:08-cv-1666 (CC), United States District Court, Northern District of Georgia
- *Cement Masons & Plasterers Joint Pension Trust v. TNS, Inc.*, Case No. 1:06 CV 363 CMH/BRP, United States District Court, Eastern District of Virginia
- *Cerda v. Associates First Capital Corporation*, Civil Action No. M-03-146, United States District Court, Southern District of Texas, McAllen Division
- *Chao v. Slutsky*, Civil Action File No. 01-CIV-7593, United States District Court, Eastern District of New York
- *Clayton v. Velociti, Inc.*, Case No. 08-CV-2298-CM/GLZ, United States District Court for the District of Kansas at Kansas City
- *Clearview Imaging, L.L.C. v. Dairyland Insurance Company*, Case No.: 04-11399, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *Clearview Imaging, L.L.C. v. Mercury Insurance Company of Florida*, Case No. 03-5170, Circuit Court of the Thirteenth Judicial Circuit of the State of Florida, in and for Hillsborough County, Florida, Civil Division
- *Clearview Imaging, L.L.C. v. Nationwide Mutual Insurance Company*, Case No. 04-10396 Division H (consolidated), Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *Clearview Imaging, L.L.C. v. Progressive Consumers Insurance Company*, Case No. 034174 Division C, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *Clemons v. Thompson*, Docket No.: MON-L-001980-07, United States District Court, Eastern District of New York
- *In re CNX Gas Corporation Shareholders Litigation*, C.A. No. 5377-VCL, Court of Chancery of the State of Delaware

- *Cohen v. JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A.*, Case No. 04 CV 4098, United States District Court, Eastern District of New York
- *Coleman v. Lincoln Wood Products, Inc.*, 99-CVS-1362, Superior Court of New Jersey, Middlesex County: Law Division
- *Collins v. American Consumer Shows, Inc.*, Civil Action No. 1:10-CV-11912-RGS, United States District Court, District of Massachusetts
- *Commonwealth of Massachusetts v. H&R Block, Inc.*, Civil Action No. 08-2474-BLS1, Suffolk Superior Court
- *In re Connetics Securities Litigation*, Case No. C 07-02940 SI, United States District Court for the Northern District of California
- *In re: The Consumers Trust*, Case No. 05 – 60155 (REG), United States Bankruptcy Court, Southern District of New York
- *Coppess v. Healthways, Inc.*, Case No. 3:10-cv-00109, United States District Court, Middle District of Tennessee, Nashville Division
- *Corsello v. Verizon New York, Inc.*, Case No. 39610/07, Supreme Court of the State of New York
- *Cotton v. Ferman Management Services Corporation*, Case No.: 02-08115, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *Cottrell v. Gardner*, Civ. Action No. CV-2002-121(I), Superior Financial Corp. Derivative Action, State of Arkansas, Sebastian County, Arkansas
- *In re CP Ships Ltd. Securities Litigation*, Case No. 8:05-MD-1656-T-27TBM, United States District Court for the Middle District of Florida
- *Croxall v. Tampa Hund L.P.*, Case No. 03-6201, The Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *Cruz v. Condor Capital Corporation*, Docket No. MID-L-2108-06, Superior Court of New Jersey, Middlesex County: Law Division
- *Curtis v. Northern Life Insurance Company*, No. 01-2-18578-1 SEA, Superior Court of Washington for King County

- *Dandong, et al. v. Pinnacle Performance Limited, et al.*, No. 10-cv-8086 (JMF), United States District Court, Southern District of New York
- *In re: DDAVP Indirect Purchaser Antitrust Litigation*, Civil Action No. 05-cv-2237 (CS), United States District Court, Southern District of New York
- *DeCario v. Lerner New York, Inc.*, Case No. BC 317954, Superior Court of the State of California, Los Angeles County
- *In re Del Monte Foods Company Shareholder Litigation*, Consolidated C.A. No. 6027-VCL, Court of Chancery, State of Delaware
- *In re Delphi Financial Group Shareholders Litigation*, Consolidated C.A. No. 7144-VCG, Court of Chancery of the State of Delaware
- *Desai v. ADT Security Services, Inc.*, Case No. 1:11-CV-1925, United States District Court, Northern District of Illinois
- *Di Popolo v. Ramsey Nissan, Inc.*, Docket No. BER-L-10319-09, Superior Court of New Jersey, Bergen County
- *In re Diebold ERISA Litigation*, No. 5:06 CV 0170, United States District Court for the Northern District of Ohio Eastern Division
- *Dishkin v. Tire Kingdom, Inc.*, Case No. 3D08-2088, Circuit Court for Miami-Dade County, Florida
- *Drury v. Countrywide Home Loans, Inc.*, Case No. 6:08-cv-152-ORL-28 DAB, United States District Court, Middle District of Florida, Orlando Division
- *In re Dura Pharmaceuticals, Inc. Securities Litigation*, Master File No. 99-CV-0151-JLS (WMC), United States District Court, Southern District of California
- *Eisenberger v. Boston Service Company, Inc.*, Docket No.: MID-L-10366-09, Superior Court of New Jersey, Middlesex
- *In re Electronic Data Systems Corp. ERISA Litigation*, 6:03-MD-1512 and Lead Case: 6:03CV-126 (ERISA), United States District Court, Eastern District of Texas, Tyler Division
- *In re Emergent Group, Inc. Shareholder Litigation*, Lead Case No. BC455715, Superior Court of the State of California, County of Los Angeles

- *In re: Enterprise Rent-A-Car Wage & Hour Employment Practices Litigation*, MDL No. 2056, United States District Court for the Western District of Pennsylvania
- *Epstein v. Sears, Roebuck and Co.*, Docket No.: UNN-L-1732-09, Superior Court of New Jersey, Union County: Law Division
- *Estate of Gary Robertson v. ADS Alliance Data Sys., Inc.*, Case No. 8:11-cv-1652-T-33TBM, United States District Court, Middle District of Florida, Tampa Division
- *Estates of Hampton v. Beverly Enterprises-Arkansas, Inc.*, No. CV 2004-95-3, Circuit Court of Bradley County, Arkansas
- *Estep v. Smythe Volvo, Inc.*, Case No. UNN-L-004184-03, Superior Court of New Jersey, Union County: Law Division
- *Evans v. Stewart Title Guaranty Company*, Case No. 04-06630-05, Circuit Court of the 17th Circuit, Broward County, Florida
- *Family Open MRI, Incorporated v. Direct General Insurance Company*, Case No. 03-4175, Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *In re Fannie Mae ERISA Litigation*, Consolidated Civil Action No.: 1:04-cv-01784 (RJL), United States District Court, District of Columbia (Washington, D.C.)
- *Fernando v. Neopost USA, Inc.*, Case No.: BC439856, Superior Court of the State of California, County of Los Angeles
- *Fernando v. Priority Mailing Systems*, Case No. BC439857, Superior Court of the State of California, County of Los Angeles
- *Ferro v. Florida Windstorm Underwriting Assoc.*, Civil 00014808, 17th Judicial Circuit, Broward County, Florida
- *In re FLAG Telecom Holdings, Ltd. Securities Litigation*, Master File No. 02-CV-3400 (CM) (PED), United States District Court, Southern District of New York
- *Flood v. Dominguez*, Case No. 2:08-CV-153, United States District Court for the Northern District of Indiana
- *Kellman v. Forever 21 Retail, Inc.*, Case No. 12-32841 CA 05, Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida

- *Francis v. A&E Stores, Inc.*, Case No. 06 CV 1638(CS)(GAY), United States District Court, Southern District of New York
- *Franco v. Ace Parking Management Inc.*, Case No. BC 392809, Superior Court of the State of California, Los Angeles County
- *Fray-Witzer v. Metropolitan Antiques, LLC*, Civil Action No. 02-5827, Commonwealth of Massachusetts, Superior Court, Department of the Trial Court, Suffolk Division
- *Fray-Witzer v. Olde Stone Land Survey Company, Inc.*, C.A. No.: 2008-04175, Superior Court C.A. No. 2008-04175, Commonwealth of Massachusetts
- *In re Fremont General Corporation Litigation*, CV07-02693 JHN(FFMX), United States District Court for the Central District of California
- *Friedman v. Rayovac Corp.*, Case No. 02-C-0308-C, United States District Court for the Western District of Wisconsin
- *Froumy v. Stark & Stark*, Case No. 3:09-cv-04890, United States District Court, District of New Jersey
- *FW Transportation, Inc. v. Associates Commercial Corp.*, Case No. C200000084, District Court of Johnson County, Texas, 18th Judicial District
- *In re General Electric Company Securities Litigation*, Civ. No. 09-CIV-1951 (DLC), United States District Court, Southern District of New York
- German Forced Labor Compensation Program (GFLCP)
- *In re Gilead Sciences Securities Litigation*, Master File No. C-03-4999-SI, United States District Court, Northern District of California
- *Gilley v. Ernie Haire Ford, Inc.*, Case No.: 02-8101, Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division
- *In re Goodrich Shareholders Litigation*, Index No. 13699/2011 (Consolidated), Supreme Court of the State of New York, County of Nassau: Commercial Division
- *Graham v. Town & Country Disposal of Western Missouri, Inc.*, Case No.: 4:10-CV-00551, United States District Court for the Western District of Missouri

- *Greenstein v. Nations Title Agency of Florida, Inc.*, Case No.502007CA014085XXXMBAA, Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida
- *Griffin v. Flagstar Bancorp, Inc.*, Case No. 2:10-cv-10610, United States District Court, Eastern District of Michigan, Southern Division
- *Groen v. PolyMedica Corporation*, Civil Action No. 07-3352, Commonwealth of Massachusetts, Superior Court Department, Middlesex County
- *Gulf Coast Injury Center, LLC v. Nationwide Mutual Fire Insurance Company*, Case No.: 08-CA-012621, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida
- *Hall v. The Children's Place Retail Stores, Inc.*, Civil Action No. 1:07-cv-08252-SAS (Consolidated), United States District Court, Southern District of New York
- *Hamilton v. ATX Services Inc.*, Case No. 08-0030-CV-W-SOW, United States District Court for the Western District of Missouri, Western Division
- *Hargrave v. TXU Corp.*, Case No. 3:02-CV-2573-K, United States District Court, Northern District of Texas, Dallas Division
- *Harris v. First Regional Bancorp*, Case No.: CV10-7164 CJC (MLGx), United States District Court Central District of California
- *Harris v. Koenig*, Case No. 1:02-CV00618 (GK), United States District Court for the District of Columbia
- *In re Hartford Financial Services Group Inc. ERISA Litigation*, Master File: 3:08-CV-01708 (PCD), United States District Court, District of Connecticut
- *Haynes v. Baptist Health*, 240 S.W.3d 576 (2006), Supreme Court of Arkansas
- *In re: Hearst-Argyle Shareholder Litigation*, Index No. 09-Civ-600926, Supreme Court of the State of New York, County of New York
- *Hellmers v. Countrywide Home Loans, Inc.*, Civil Action No. 07-7703, United States District Court, Eastern District of Louisiana
- *Hess v. Oriole Homes Corp.*, Civil Action No. 07-7703, Circuit Court of the 15th Judicial Circuit, Palm Beach County, Florida

- *Hill v. American Medical Security Life Insurance Company*, C.A. No. W-06 CA 332, United States District Court, Western District of Texas, Waco Division
- *Hill v. Countrywide Home Loans, Inc.*, Case No. A-0178441, United States District Court, Eastern District of Texas
- *Holley v. Kitty Hawk, Inc.*, Case No. 3-00 CV 0828-P, United States District Court for the Northern District of Texas, Dallas Division
- *In re Holocaust Victim Assets Litigation (Swiss Banks) (HVAP)*, Master Docket No. CV-964849 , United States District Court, Eastern District of New York
- *Horton v. Cavalry Portfolio Services, LLC*, Case No. 13 CV0307 JAH WVG, United States District Court, Southern District of California
- *Hudson United Bank v. Chase*, Docket No.: L-235-05, Superior Court of New Jersey, Hunterdon County
- *Hughley v. Maryland Casualty Company*, Case No.: 06-21428-CIV-ALTONAGA, United States District Court for the Southern District of Florida, Miami Division
- *Hunt v. PacifiCare Life and Health Insurance Company*, Case No. 37-2009-00088839-CUIC-CTL
- *Hutson v. Baptist Health*, Case No. CV 08-8221, Pulaski Circuit/County Court [Arkansas]
- *Hutt v. Martha Stewart Living Omnimedia, Inc.*, Index No. 651249/2012, Supreme Court of New York, County of New York
- *In re ICG Communications, Inc. Securities Litigation*, Civil Action No. 00-cv-1864-REBBNB (Consolidated), United States District Court for the District of Colorado
- *In re: InfoSonics Securities Litigation*, Civil Action No. 06-CV-1231-JLS (WMC), District Court for the Southern District of California
- *In re ING Groep, N.V. ERISA Litigation*, Master File No. 1:09-CV-00400-JEC, United States District Court, Northern District of Georgia, Atlanta Division
- *In re International Business Machines Corp. Securities Litigation*, Civil Action No. 1:05-cv6279 (AKH), United States District Court, Southern District of New York
- International Commission on Holocaust Era Insurance Claims (ICHEIC)

- *In re Iowa Ready-Mixed Concrete Antitrust Litigation*, Case No. 5:10-CV004038-MWB, United States District Court, Northern District of Iowa, Western Division
- *In re J. Crew Group, Inc. Shareholders Litigation*, Case No. 6043-CS, Court of Chancery of the State of Delaware
- *In re JDS Uniphase Corporation ERISA Litigation*, Master File No. C 03-04743 CW, United States District Court, Southern District of West Virginia at Beckley
- *Kalow & Springut, LLP v. Commence Corporation*, Case No. 07-3443 (FLW/JJH), United States District Court for the District of New Jersey
- *Kay v. Wells Fargo & Company*, Case No. 07-01351 WHA, United States District Court, Northern District of California
- *In re: King Pharmaceuticals, Inc. Securities Litigation*, No. 2:03-CV-77, United States District Court, Eastern District of Tennessee, Greeneville Division
- *Krakauer v. DISH Network, LLC*, Civil Action No. 1:14-cv-00333-CCE-JEP, United States District Court, Middle District of North Carolina
- *Kreher v. City of Atlanta, Georgia*, Case No. 1:04-cv-2651, United States District Court, Northern District of Georgia
- *Kubacki v. Peapod, LLC*, Case No. 13 C 729, United States District Court for the Northern District of Illinois, Eastern Division
- *Kubota v. Walker*, Cause Number 06-02446, District Court of Dallas County, Texas, 95th Judicial District
- *The Lafayette Life Insurance Company v. City of Menasha*, Cause No. 4:09-CV-64TLS-APR, United States District Court, Northern District of Indiana, Hammond Division (Lafayette)
- *In re LDK Solar Securities Litigation*, Master File No. C 07-05182 WHA, United States District Court, Northern District of California
- *In re Lear Corp. ERISA Litigation*, Master File: 2:06-CV-11735 (AJT-VMM), United States District Court, Eastern District of Michigan
- *Lehmann v. Ivivi Technologies, Inc.*, Docket No. C-343-09, Superior Court of New Jersey, Bergen County, Chancery Division

- *In re Lehman Brothers Equity/Debt Securities Litigation*, Case No. 09-MD-2017 (LAK), United States District Court, Southern District of New York
- *In re Lernout & Hauspie Securities Litigation* (Directors and FLV Settlements), Civil Action No. 00-CV-11589 (PBS), United States District Court for the District of Massachusetts
- *In re Lernout & Hauspie Securities Litigation* (KPMG Settlement), Case No. 04-CV-1738, United States District Court for the District of Massachusetts
- *Leslie Niederklein v. PCS Edventures!.com, Inc.*, Civil Action No. 1:10-cv-00479-CWD, United States District Court, District of Idaho
- *Lilly v. Oneida Ltd. Employee Benefits Admin. Comm.*, Case No. 6:07-cv-00340 (NPM/ATB), United States District Court, Northern District of New York
- *In re Limelight Networks, Inc. Securities Litigation*, Master File No. CV07-01603-PHXSRLB, United States District Court, District of Arizona
- *Lofton v. Verizon Wireless (VAW) LLC*; Case No. C 13-05665 YGR, United States District Court for the Northern District of California, Oakland Division
- *Long v. Eschelon Telecom, Inc.*, File Number 27-CV-07-6687, Fourth Judicial District of the State of Minnesota, County of Hennepin
- *Lopera v. The Receivable Mgmt. Servs. Corp.*, Case No. 12-CV-9649, United States District Court for the Northern District of Illinois, Eastern Division
- *The Louisiana Municipal Police Employees Retirement System v. Deloitte & Touche LLP*, C.A. No. 04-621 (LDW), United States District Court, Eastern District of New York
- *Mann & Company, PC v. C-Tech Industries, Inc.*, Civil Action No. 1:08CV11312-RGS, United States District Court, District of Massachusetts
- *Mann v. Lawyers Title Insurance Corporation*, Case No. 03 CH 15223, Circuit Court of Cook County, Illinois, County Department, Chancery Division
- *Mantzouris v. Scarritt Motor Group, Inc.*, Case No. 8:03CV0015-T-30-MSS, United States District Court, Middle District of Florida, Tampa Division

- *In re Marine Hose Antitrust Litigation* (Bridgestone, Dunlop, Parker, Trelleborg, and Yokohama Settlements), Master Docket No. 08-MDL-1888-Graham/Turnoff, United States District Court, Southern District of Florida, Miami Division
- *In re Marsh ERISA Litigation*, Master File No.: 04 cv 8157 (CM), United States District Court, Southern District of New York
- *In re Martek Biosciences Corp. Securities Litigation*, Civil Action No. MJG 05-1224, United States District Court, District of Maryland, Northern Division
- *Martin v. aaiPharma, Inc.*, Master File No: 7:04-CV-27-D, United States District Court, Eastern District of North Carolina
- *Martin v. Dun & Bradstreet, Inc.*, Case No. 1:12-cv-00215, United States District Court for the Northern District of Illinois
- *Martin v. Foster Wheeler Energy Corporation*, Case No. 3:06-CV-00878, United States District Court, Central District of California
- *In re Massey Energy Co. Securities Litigation*, Civil Action No. 5:10-cv-00689-ICB, United States District Court for the Northern District of California
- *Mayer v. Administrative Committee of the Smurfit-Stone Container Corporation Retirement Plans*, Case No. 1:09-cv-02984, United States District Court, Northern District of Illinois
- *Mayes v. The Geo Group, Inc.*, Case No. 5:08-cv-248/RS/EMT, United States District Court, Northern District of Florida, Panama City Division
- *Mayotte v. Associated Bank, N.A.*, Case No. 2:07-CV-00033, United States District Court, Northern District of Florida, Panama City Division
- *In re MBNA Corp. Securities Litigation*, Case No. 1:05-CV-00272-GMS CONSOLIDATED, United States District Court, District of Delaware
- *Meadows v. Clearwater Bay Marketing, LLC*, Cause No. 49C01-0812-PL-054708, Marion Circuit Court, Civil Division, Marion County, Indiana
- *Means v. River Valley Financial Bank*, Cause No. 49D12-0704-PL016504, Marion Superior Court, County of Marion, State of Indiana
- *In re Merck & Co. Inc. Vytorin ERISA Litigation*, Civil Action No. 08-CV-1974 (DMC), United States District Court, District of New Jersey

- *Merrimon v. UNUM Life Insurance Company of America*, CIV. NO. 2:10-cv-00447-NT, United States District Court, District of Maine
- *In re Metavante Technologies, Inc. Shareholder Litigation*, Consolidated Case No. 09-CV5325 State of Wisconsin, Milwaukee County Circuit Court
- *Mey v. Herbalife International, Inc.*, Civil Action No. 01-C-263, Circuit Court of Ohio County, West Virginia
- *Mey v. Honeywell Int'l, Inc., et al.*, Case No. 2:12-cv-1721, United States District Court the for Southern District of West Virginia
- *In re Micromuse, Inc. Securities Litigation*, Case No. C-04-0136 BZ, United States District Court, Northern District of California
- *Milford & Ford Associates, Inc. v. Cell-Tek, LLC*, C.A. NO. 1:09-CV-11261-DPW, United States District Court, District of Massachusetts
- *Miller v. Weltman, Weinberg & Reis Co., L.P.A.*, Docket No. MID-L-006248-07, Superior Court of New Jersey, Law Division: Middlesex County
- *In re: MK Resources Company Shareholders Litigation*, C.A. Nos. 1692-VCS and 1598VCS, Court of Chancery, New Castle County, State of Delaware
- *Montalvo v. Tripos, Inc.*, Case No. 4:03CV995SNL, United States District Court, Eastern District of Missouri
- *Moore v. The Hertz Corporation*, 03-11772 Div. K, Circuit Court of the Thirteenth Judicial Circuit of State of Florida in and for Hillsborough, County Civil Division
- *In re Morgan Asset Management, Inc.* (Kelsoe and Weller Settlements), Administrative Proceeding File No. 3-13847, United States of America Before the Securities and Exchange Commission
- *Morrison v. MoneyGram International, Inc.*, Case No. 08-CV-01121 (PJS/JJG), United States District Court for the District of Minnesota
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- *In re Motive, Inc. Securities Litigation*, Civil Action No. A-05-CV-923-LY and Case No. A06-CA-017-LY, United States District Court, Western District of Texas

- *Mozenter v. Nalco Holding Company*, Case No. 2011-MR-001043 (Consolidated), United States of America, State of Illinois, County of Dupage, Circuit Court of the Eighteenth Judicial Circuit
- *Mulhern v. MacLeod d/b/a ABC Mortgage Company*, Civil Action No. 2005-01619, Commonwealth of Massachusetts
- *In re: National City Corporation Securities, Derivative & ERISA Litigation*, Case No. 08-nc70000, United States District Court for the Northern District of Ohio, Eastern Division
- *The People of the State of New York v. SKS Associates, LLC*, IAS Part 58, Index No. 400908/12, Supreme Court of the State of New York, County of New York
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- *In re Novamed, Inc. Shareholders Litigation*, Consolidated C.A. No. 6151-VCP, Court of Chancery State of Delaware
- *NSL Capital Management v. Gorman*, Docket No. C-48-08, Superior Court of New Jersey, Chancery Division, Monmouth County
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- *In re: NX Networks Securities Litigation*, Civil Action Nos. 00-CV-11850-JLT and 01-CV10377-JLT, United States District Court, District of Massachusetts
- *Obermeyer v. MarineMax East, Inc.*, Case No. 08-54007-CA-24, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida
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- *Ori v. Fifth Third Bank and Fiserv, Inc.*, Case No. 08-CV-00432-LA, United States District Court, Eastern District of Wisconsin
- *In re: Ortiz v. Aurora Health Care, Inc.*, Case No. 2:12-cv-00295-LA, United States District Court for the Eastern District of Wisconsin

- *Osborn v. EMC Corporation*, Case No. C 04-00336 JSW, Northern District of California, San Francisco Division
- *In re OSI Pharmaceuticals, Inc. Securities Litigation*, Master File No. 2:04-CV-05505-JSWDW, United States District Court, Eastern District of New York
- *Otte v. Life Insurance Company of North America*, Civ. No. 09 CV 11537 RGS, United States District Court, District of New Hampshire
- *Overby v. Tyco International Ltd.*, Case No. 02-CV-1357-B, United States District Court, District of New Hampshire
- *Ownby v. Citrus County, Florida*, Case No. 2004-CA-1840, Circuit Court of the Fifth Judicial Circuit of the State of Florida, in and for Citrus County, Civil Division
- *In re: Pacific Gateway Exchange, Inc. Securities Litigation*, Master File No. C-00-1211-PJH, United States District Court for the Northern District of California
- *Paliotto v. Johnny Rockets Group, Inc.*, 1:06-cv-02253-RCL, United States District Court for the District of Columbia (Washington, D.C.)
- *In re Par Pharmaceutical Companies, Inc. Shareholders Litigation*, C.A. No. 7715-VCP, Court of Chancery of the State of Delaware
- *In re Par Pharmaceutical Securities Litigation*, Master File No. 2:06-cv-03226 (ES) (SCM), United States District Court, District of New Jersey
- *Parker v. American Medical Security Group, Inc.*, Civil Action File No. 04-1-1980-42, Superior Court of Cobb County, State of Georgia
- *Parthiban v. GMAC Mortgage Corporation*, SACV05-768-ODW (MLGx), United States District Court, Central District of California, Southern Division
- *Paskowitz v. Ernst & Young, LLP* (Motive, Inc.), Civil Action No. A-08-CA-188-LY, United States District Court for the Western District of Texas, Austin Division
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- *Payson v. Capital One Home Loans, LLC* (FLSA and KWPA Settlements), Case No. 07-CV2282-JTM/DWB, United States District Court for the District of Kansas at Kansas City

- *Pension Trust Fund for Operating Engineers v. Assisted Living Concepts, Inc.*, Case No. 12CV-884-JPS, United States District Court, Eastern District of Wisconsin
- *Pereira v. Foot Locker, Inc.*, Civil Action No. 07-CV-2157-JCJ, United States District Court, Eastern District of Pennsylvania
- *Perez v. Rent-A-Center, Inc.*, Civil Action File No. 01-CIV-7593, Superior Court of New Jersey, Law Division: Camden County
- *Pettway v. Harmon Law Offices, P.C.*, Civil Action No. 03-10932-RGS, United States District Court, District of Massachusetts
- *In re: PFF Bancorp, Inc. ERISA Litigation*, No. CV 08-01093-SVW (PLAx), United States District Court, Central District of California
- *Pickett v. Triad Financial Corporation*, Docket No.: MID-L-007727-05, Superior Court of New Jersey, Middlesex County
- *In Re: Platinum and Palladium Commodities Litigation*, Master File No. Civ 3617 (WHP), United States District Court, Southern District of New York
- *Police and Fire Retirement System of the City of Detroit, Plymouth County Retirement System v. SafeNet, Inc.*, Case No. 06 Civ. 5797 (PAC)
- *Pollitt v. DRS Towing, LLC*, Case No. 3:10-cv-1285, United States District Court of New Jersey, Trenton Vicinage
- *In re Potash Antitrust Litigation (II)*, MDL Dkt. No. 1996, No. 1:08-CV-6910, United States District Court for the Northern District of Illinois
- *Premier Open MRI, LLC v. Progressive American Ins. Co.*, Case No. 04-00021, Circuit Court for the Thirteenth Judicial Circuit in and for Hillsborough County, Florida
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- *Provo v. China Organic Agriculture, Inc.*, Case No.: 08-cv-10810, United States District Court, Southern District of New York
- *Puritan Budget Plan, Inc. v. Amstar Insurance Company*, Case No. 04-10428, Circuit Court of the 17th Judicial Circuit in and for Broward County, Florida
- *Quaak v. Dexia, S.A.*, No.: 03-CV-11566 (PBS), United States District Court, District of Massachusetts

- *Ragsdale v. SanSai USA, Inc.*, Case Number 07-cv-1246 WQH (CAB), United States District Court, Southern District of California
- *Ramirez v. GreenPoint Mortgage Funding, Inc.*, Case No. 08-CV-00369 TEH, United States District Court for the Northern District of California
- *Raspante v. Harris Interactive et al.*, C.A. 9148-VCP, Court of Chancery, State of Delaware
- *Raul v. Western Liberty Bancorp*, Case No. A-12-668865-B, District Court of Clark County, Nevada
- *In re RBC Dain Rauscher Overtime Litigation*, Master File: 06-03093 JRT-FLN, United States District Court, District of Minnesota
- *In re RCN Corporation ERISA Litigation*, Master File No.: 04-CV-5068 (FLW), United States District Court, District of New Jersey
- *In re Ready-Mixed Concrete Antitrust Litigation*, Case No. 1:05-cv-00979-SEB-VSS, United States District Court for the Southern District of Indiana, Indianapolis Division
- *In re Reliant Securities Litigation*, Civil Action No. H-02-1810 (CONSOLIDATED), United States District Court, Southern District of Texas, Houston Division
- *In re RenaissanceRe Holdings Ltd. Securities Litigation*, Master No. 1:05-cv-06764-WHP, United States District Court, Southern District of New York
- *In re R.H. Donnelley Corp. ERISA Litigation*, Case No. 09-CV-07571 (RWG/MTM), United States District Court, Northern District of Illinois
- *Rolark v. Lawyers Title Insurance Corporation*, Case No. 03 CH 13789, Circuit Court of Cook County, Illinois County Department, Chancery Division
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- *S. Parker Hardware Mfg. Corp. v. AT&T Corp.*, Docket No. BER-L-162-06, Superior Court of New Jersey, Bergen County

- *Saint Pete MRI v. Hartford*, Case No.: 10-03925, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida
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- *Sam v. White*, Cause No. 49D06-1006-PL-027492, State of Indiana, Marion Superior Court No. 6, Civil Division
- *Santos v. Silver*, Docket No.: MID-L-08188-07, Superior Court of New Jersey, Middlesex County
- *Scher v. Oxford Health Plans, Inc.*, AAA No. 11 193 00548 05, American Arbitration Association
- *In re Schering-Plough Corp. Enhance ERISA Litigation*, Civil Action No. 08-CV-1432 (DMC), United States District Court, District of New Jersey
- *In re Schering-Plough Corp. ERISA Litigation*, Civil Action No. 03-1204 (KSH), United States District Court, District of New Jersey
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- *SEC v. Gen-See Capital Corporation and Richard S. Piccoli*, Civil Action 09-cv-00014S, United States District Court, Western District of New York
- *SEC v. RenaissanceRe Holdings Ltd.*, Case No. 1:07-cv-00865 RWS, United States District Court, Southern District of New York
- *In re SEC v. Rockford Funding Group*, Docket 1:09-cv-10047-PGG, United States District Court, Southern District of New York
- *In re SEC v. Take-Two Interactive Software, Inc.*, Civil Action No. 09-cv-03113, United States District Court, Southern District of New York

- *SEC v. Tecumseh Holdings Corporation*, 03 Civ. 5490 (SAS), United States District Court, Southern District of New York
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- *SEC v. Value Line, Inc.*, A.P. File No. 3-13675, Securities and Exchange Commission
- *SEC v. WexTrust Capital, LLC*, Case No. 08-cv-7104 (DC), United States District Court, Southern District of New York
- *SEC v. Zomax, Inc.*, Civil Action No. 04-1155 (DWF/SRN), United States District Court, District of Minnesota
- *Serino v. Kenneth Lipper v. PricewaterhouseCoopers, LLP*, Index No. 04/602106, Supreme Court of the State of New York, County of New York
- *In re Sexy Hair Concepts, LLC*, Case No. 1:10-bk-25919-GM, United States Bankruptcy Court for the Central District of California, San Fernando Valley Division
- *In re SFBC International Securities & Derivative Litigation*, Case No. 2:06-cv-000165-SRC, United States District Court, District of New Jersey
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- *Shane v. Edge*, Case No. 3:10-CV-50089, United States District Court for the Northern District of Illinois, Northern Division
- *Sheikh v. Maxon Hyundai, Inc.*, Docket No: L-000476-09, Superior Court of New Jersey, Union County
- *Silke v. Irwin Mortgage Corporation*, Cause No. 49D03-0304-PL-000697, State of Indiana, Marion Superior Court, Civil Division
- *Sivsubramanian v. DNC Health Corp.*, Case No. 2:10-cv-03522-VBF (FMOx), United States District Court, Central District of California at Los Angeles
- *In re SLM Corporation Securities Litigation*, Case No. 08-Civ-1029 (WHP), United States District Court, Southern District of New York
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- *Smolkin v. Leviton Manufacturing Co., Inc.*, Case No.: 03-C-04-008929, Circuit Court for Baltimore County
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- *Sonoda v. Amerisave*, Case No. CV11-01803-EMC, United States District Court for the Northern District of California, San Francisco Division
- *Southeast Texas Medical Associates, LLP v. VeriSign, Inc.*, Case No. 1-05-CV-035550, Superior Court of the State of California, County of Santa Clara
- *Special Situations Fund III, L.P. v. Quovadx, Inc.*, Case No. 04-cv-01006-RPM, United States District Court for the District of Colorado
- *Steele v. GE Money Bank*, Case No. 08-CV-1880 United States District Court for the Northern District of Illinois
- *Stein v. Pactiv Corporation*, Case No. 10-CH-35455, Circuit Court of Cook County, Illinois, County Department, Chancery Division
- *In re Sterling Financial Corporation Merger Litigation*, No. 13-2-03848-4 (Consolidated with Case Nos. 13-2-03904-9 and 13-2-03986-3), Superior Court of Washington in and for Spokane County
- *In re: Sterling Financial Corporation Securities Class Action*, Civil Action No. 07-2171, United States District Court, Eastern District of Pennsylvania
- *Stoffels v. SBC Communications, Inc.*, Case No. 5:05-CA-00233-WWJ, United States District Court for the Western District of Texas, San Antonio Division
- *In re Stone & Webster, Inc. Securities Litigation*, Civil Action No. 00-CV-10874-RWZ, United States District Court, District of Massachusetts
- *In re: Supervalu, Inc. Securities Litigation*, Civil Action No. 02-CV-1738 (JEL/JGL), United States District Court, District of Minnesota
- *In re Suprema Specialties, Inc. Securities Litigation*, Master File No. 02-168 (WHW), United States District Court, District of New Jersey

- *Sutterfield v. Carney*, Case No. C-04-0893 BZ, United States District Court, Northern District of California
- *In re Symbol Technologies, Inc. Securities Litigation*, Case No. 02-CV-1383 (LDW), United States District Court, Eastern District of New York
- *In re Take-Two Interactive Securities Litigation and SEC v. Brant*, No. 1:06-cv-00803-RJS, United States District Court, Southern District of New York
- *Taylor v. McKelvey* (Monster Worldwide, Inc.), Civil Action No.: 06-cv-8322 (AKH), United States District Court, Southern District of New York
- *In re TD Banknorth Shareholders Litigation*, Consolidated C.A. No. 2557-VCL, Court of Chancery of the State of Delaware
- *In re Ticketmaster Entertainment Shareholder Litigation*, Case No. BC407677, Superior Court for the State of California, County of Los Angeles, Central Civil West
- *In re: Tyson Foods, Inc. Securities Litigation*, Civil Action No. 01-425-SLR, United States District Court for the District of Delaware
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- *Ultra Open MRI Corporation v. Nationwide Assurance Company*, Case No. 03-010725, Thirteenth Judicial Circuit Court in and for Hillsborough County, Florida, Division H
- *United Consumer Financial Services Company v. William Carbo v. A&M Merchandising, Inc.*, Case No. L-3438-02, Superior Court of New Jersey, Law Division: Hudson County
- *Valley National Bank v. Cahn*, Docket No. L-0504-04, Superior Court of New Jersey, Law Division, Mercer County
- *Valuepoint Partners, Inc. v. ICN Pharmaceuticals, Inc.*, Case No. SACV 03-989 DOC (Anx), United States District Court, Central District of California
- *In re Vaso Active Pharmaceuticals Derivatives Litigation*, Master Docket No. 04-10792 (RCL) (Consolidated Derivative Action), United States District Court, District of Massachusetts

- *In re Vaso Active Pharmaceuticals Securities Litigation*, Master Docket No. 04-10708 (RCL), United States District Court, District of Massachusetts
- *Veal v. Crown Auto Dealerships, Inc.*, Case No. 8:04-CV-0323-T-27 MSS, United States District Court, Middle District of Florida, Tampa Division
- *In re Viisage Technology, Inc. Securities Litigation*, Civil Action No. 05-cv-10438-MLW, United States District Court, District of Massachusetts
- *In re VisionAmerica, Inc. Securities Litigation*, Master File No. 3-00-0279, United States District Court, Middle District of Tennessee, Nashville Division
- *Von Friewalde v. Boeing Aerospace Operations, Inc.*, C.A. No. SA06CA0236-OG, United States District Court for the Western District of Texas, San Antonio Division
- *In re Vonage Initial Public Offering (IPO) Securities Litigation*, Docket No. 07-CV-177 (FLW/TJB), United States District Court, District of New Jersey
- *Walker v. Hill Wallack LLP*, Case No. MID-L-003480-08, Superior Court of New Jersey, Middlesex County, Law Division
- *Walter v. Level 3 Communications, Inc.*, Civil Action No. 09-cv-0658-REB-CBS, United States District Court, District of Colorado
- *In re Warner Chilcott Limited Securities Litigation*, Case No. 06-CV-11515-WHP, United States District Court, Southern District of New York
- *Warren v. Orkin Exterminating Company, Inc.*, Civil Action No. 01-1-8395-35, Superior Court of Cobb County, State of Georgia
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- *Wenger v. Freehold Subaru, LLC*, Civil Action, Docket No. MON-L-4003-10, Superior Court of New Jersey, Monmouth County – Law Division
- *Williams v. CBE Group*, Case No.: 2:11-cv-3680-PS, United States District Court, District of New Jersey
- *Wisniak v. Mirant Americas Generation, LLC*, Civil Action No. 1:03-CV-2049-BBM, United States District Court for the Northern District of Georgia, Atlanta Division
- *Wyatt v. El Paso Corporation*, Civil Action No. H-02-2717, United States District Court, Southern District of Texas, Houston Division
- *Herrera v. Wyeth ERISA Litigation*, Civil Action: 08 Civ. 04688 (RJS), United States District Courts, Southern District of New York
- *Yarviv v. AT&T Corp.*, Docket No. SOM-L-272-05, Superior Court of New Jersey, Law Division: Somerset County
- *Yingling, et al. v. eBay, Inc.*, C 09 01733 JW (PVT), United States District Court, Northern District of California, San Jose Division
- *Yost v. First Horizon*, Civil Action No. 08-02293, United States District Court, Western District of Tennessee
- *Young v. Heimbuch*, Case No: CV10-8914 ODW (MANx), United States District Court, Central District of California
- *In re: YRC Worldwide, Inc. ERISA Litigation*, Case No. 2:09-cv-02953, United States District Court, District of Kansas
- *Zametkin v. Fidelity Management & Research Company*, No. 1:08-cv-10960-MLW, United States District Court, District of Massachusetts
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- *Zilhaver v. UnitedHealth Group Incorporated*, No. 06-C-2237, United States District Court, District of Minnesota
- *In re Zomax, Inc. Securities Litigation*, Case No. 05-cv-01128, United States District Court, District of Minnesota

EXHIBIT B

Exhibit B

1. *Hopkins v. Modernize, Inc.*, No. 17-4008 (D. Mass.)
2. *Abante Rooter & Plumbing, Inc. v. Alarm.com, Inc.*, No. 15-6314 (N.D. Cal.)
3. *Fitzgerald v. Universal Pictures, et al.*, No. 16-1193 (M.D. Fla.)
4. *Benzion v. Vivint, Inc.*, No. 12-61826 (S.D. Fla.)
5. *Duchene v. Westlake Servs., LLC*, No. 13-157 (W.D. Penn.)
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7. *Lofton v. Verizon Wireless (VAW) LLC*, No. 13-5665 (N.D. Cal.)
8. *Krakauer v. DISH Network, LLC*, No. 14-333 (M.D.N.C.)

EXHIBIT C

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1. *Hopkins v. Modernize, Inc.*, No. 17-4008 (D. Mass.)
2. *Youngman v. A&B Ins. & Fin., Inc.*, No. 16-1478 (M.D. Fla.)
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7. *In re Collecto, Inc. Telephone Consumer Protection Act Litig.*, No. 14-md-2513 (D. Mass.)
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9. *In re: Monitronics Int'l, Inc., Telephone Cons. Protection Act Litig.*, No. 13-md-2493 (N.D. W. Va.)
10. *Mey v. Venture Data, LLC*, No. 14-123 (N.D. W. Va.)
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19. *Desai v. ADT Security Systems, Inc.*, No. 11-1925 (N.D. Ill.)
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21. *Heidarpour v. Central Payment Co. LLC*, No. 15-139 (M.D. Ga.)

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ, on
Behalf of Themselves and all Others
Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No. 16-cv-03396-YGR

**PLAINTIFFS' SECOND SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT RASH
CURTIS & ASSOCIATES**

1 PROPOUNDING PARTY: Plaintiffs Sandra McMillion, Jessica Adekoya, and Ignacio Perez

2 RESPONDING PARTY: Rash Curtis & Associates

3 SET NUMBER: Two

4 Pursuant to the provisions of Federal Rule of Civil Procedure 34 and the Civil Local Rules,
5 Plaintiffs request that Defendant Rash Curtis & Associates (“Defendant” or “Rash Curtis”) respond
6 to the following Requests for Production of Documents within the time allowed by law. The
7 production shall occur at the offices of Bursor & Fisher, P.A., at 1990 North California Boulevard,
8 Suite 940, Walnut Creek, California 94596.

9 As soon as practicable, the parties shall meet and confer in good faith regarding an
10 appropriate protocol for the production of documents. In lieu of such an agreement, the production
11 of electronically stored information shall be in PDF format, and hardcopy documents shall be
12 scanned and produced as PDF images. Original document orientation shall be maintained (i.e.,
13 portrait to portrait and landscape to landscape). All documents must be searchable through Optical
14 Character Recognition (“OCR”). When subjecting documents to an OCR process, the settings of
15 the OCR software shall maximize text quality over processing speed. Any settings such as
16 “autoskewing,” “auto-rotation,” and the like should be turned on when documents are run through
17 the OCR process. Notwithstanding the above, Microsoft Excel files or other spreadsheet programs,
18 database files, videos, and any other file types that reasonably require viewing in their native
19 format for full understanding of their content shall be produced in their native format. The
20 production of electronically stored documents shall also include all attendant metadata. Where
21 such attendant metadata is not available, any available bibliographic coding shall be produced in its
22 stead.

23 All documents must be assigned a Bates/control number that shall always: (1) be unique
24 across the entire document production, (2) maintain a constant length (zero/0-padded) across the
25 entire production, (3) contain no special characters or embedded spaces, and (4) be sequential
26 within a given document. If a Bates number or set of Bates numbers is skipped in a production, the
27 producing party will disclose the Bates numbers or ranges in a cover letter accompanying the

1 production.

2 **DEFINITIONS**

3 The following definitions and instructions are incorporated by reference whenever
4 applicable in this document:

5 1. The term “ANY” shall also mean “ALL” and vice versa. As used herein, the
6 singular shall always include the plural and the present tense shall also include the past tense. The
7 words “AND” as well as “OR” shall be construed disjunctively or conjunctively as necessary to
8 bring within the scope of this request all DOCUMENTS or things that might otherwise be
9 construed to be outside its scope.

10 2. The term “AUTOMATIC TELEPHONE DIALING SYSTEM” or “ATDS” means
11 equipment which has the capacity to store or produce telephone numbers to be called; and to dial
12 such numbers. AUTOMATIC TELEPHONE DIALING SYSTEM (“ATDS”) is defined by 47
13 U.S.C. § 227(a)(1).

14 3. The term “SKIP-TRACED CALL RECIPIENTS” shall mean all persons whose
15 cellular telephone numbers YOU, your agents or anyone else acting on your behalf, obtained
16 through the use of skip-tracing AND to whom YOU, your agents or anyone else acting on your
17 behalf, placed PHONE CALLS to such persons’ cellular telephones after obtaining their cellular
18 telephone numbers through the use of skip tracing.

19 4. The term “COMMUNICATIONS” refers to the transmittal of information (in the
20 form of facts, ideas, inquiries, or otherwise), and including without limitation, DOCUMENTS, as
21 defined above.

22 5. The term “COMPLAINT” shall mean the Complaint filed by PLAINTIFFS in this
23 action.

24 6. The term “CONCERN” (or a form thereof) shall mean comprising, constituting,
25 dealing with, discussing, reflecting, evidencing, pertaining to, prepared for, representing,
26 supporting, demonstrating, corroborating, proving, refuting, disputing, rebutting, contradicting,
27 relating or referring to, stating, describing, recording, noting, embodying, containing, mentioning,

1 involving, studying, analyzing, discussing, evaluating, or relevant to. As indicated, the term
2 necessarily includes information which is in opposition to as well as in support of the position(s)
3 and claim(s) of the DEFENDANT in this action.

4 7. The term “CLASS PERIOD” shall mean the period beginning four years prior to the
5 filing of this action, through present.

6 8. The terms “DEFENDANT” and “YOU” shall mean Defendant and any relevant
7 predecessors, successors, subsidiaries, departments, divisions, committees, and/or affiliates, and
8 including, without limitation, any organization or entity which it manages or controls, together with
9 all present and former directors, officers, employees, agents, representatives, attorneys, or any
10 persons acting, or purporting to act, on its behalf, including any call center or consulting firms
11 retained, employed, or consulted by DEFENDANT in connection with PHONE CALLS.

12 9. The term “DOCUMENTS” shall mean all written, typed, printed, recorded, or
13 graphic matter of every type and description, however and by whomever prepared, produced,
14 reproduced, disseminated, or made, in any form, now or formerly in the possession, custody, or
15 control of any DEFENDANT, its agents, employees and attorneys, or any of them, including, but
16 not limited to, letters, facsimiles, correspondence, telegrams, memoranda, agreements, intra- and
17 interoffice communications, e-mails, text messages, SMS messages, drafts, working papers, data
18 sheets, indexes, purchase orders, requisitions, plans, studies, tests, trials, summaries, analyses,
19 reports, presentations, results of investigations, reviews, bulletins, proposals, estimates, appraisals,
20 recommendations, critiques, engineering calculations, bills of materials, drawings, sketches, charts,
21 spreadsheets, displays, notices, diaries, books, desk calendars, appointment books, messages,
22 instructions, work assignments, notes, notebooks, drafts, data sheets, specifications, statistical
23 records, tapes, tape recordings, partial or complete reports of telephone conversations, photographs,
24 slides, public statements, newspaper or other media releases, public and governmental filings,
25 opinions, and any other writings or recordings. If any document was, but is no longer in any
26 DEFENDANT’S possession or subject to any DEFENDANT’S control, identify the document.

10. The term "PHONE CALL" shall mean any calls made to a cellular phone by YOU, your agents or anyone else acting on your behalf, through the use of ATDS.

11. The term “PLAINTIFFS” shall mean Plaintiffs Sandra McMillion, Jessica Adekoya, and Ignacio Perez.

12. The term “TELEPHONE DIALING EQUIPMENT” shall mean any telecommunications, telemarketing or computer equipment used to make PHONE CALLS.

13. The term “THIRD PARTIES” shall mean ALL persons who are listed as reference parties on ANY debtor’s account in YOUR DAKCS OR Beyond ARM software.

14. The term “REFERENCE NUMBERS” shall mean ALL cellular telephone numbers listed as a reference number on ANY debtor’s account in YOUR DAKCS OR Beyond ARM software.

15. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

16. These interrogatories are directed to Defendant Rash Curtis & Associates.

17. If a person other than Defendant is known or believed to have in its possession, custody, or control documents or information responsive to any request, please state the name of the entity, the kind or nature of the documents or information known or believed to be maintained, any process you have initiated to retrieve these documents and the date it will be available to Plaintiffs, or information sufficient to make it available to Plaintiffs through Plaintiffs' efforts.

18. In responding to these requests, furnish all information and documents, including information contained in or on any document, that is known or available to you from all files or other sources that contain responsive documents, wherever located, and whether active, in storage, or otherwise, including all documents in the possession of your attorneys and any accountants, other professional persons or experts, investigators, or other persons acting on your behalf, or under you or your attorneys' control, employment, or direction.

19. The obligation to produce the documents specified below is of a continuing nature; your responses to these document requests are to be supplemented to the full extent required by the

1 Federal Rules of Civil Procedure, including Rule 26(e), and the Civil Local Rules of this
2 jurisdiction, and if at any time you acquire possession, custody, or control of any additional
3 documents specified below, such documents are to be furnished promptly to counsel for Plaintiffs
4 at the address provided above, unless another place is mutually agreed-upon by counsel.

5 20. Where only a portion of a document relates or refers to the subject indicated, the
6 entire document is to be produced nevertheless, along with all attachments, appendices, and
7 exhibits.

8 21. All documents shall be produced as they are kept in the usual course of business
9 with any identifying labels, file markings, or similar identifying features.

10 22. All documents produced in response to these requests shall be organized and labeled
11 to correspond with the request to which they respond, and each response to these requests shall
12 identify the documents being produced in response to each request by Bates stamp number or
13 otherwise.

14 23. If there are no documents responsive to any request specified below, you shall so
15 state in writing, produced at the time and place that documents are demanded to be produced by
16 this request.

17 24. If any document or portion thereof is withheld under a claim of privilege, the
18 withholding party shall produce so much of the document as is not subject to the possible claim of
19 privilege, and shall furnish a statement, or "privilege log," signed by the party's counsel, which
20 identifies each document or portion thereof for which a privilege is claimed, including the
21 following information:

- 22 a. The date of the document;
- 23 b. The name and title of the person who wrote, authored, prepared, signed, or
24 originated the document, or the person who knows about the information
25 contained therein;
- 26 c. The name and title of the recipient or recipients of the document;
- 27 d. All persons to whom copies of the documents were furnished, along with

such persons' job titles or positions;

- e. A brief description of the subject matter or nature of the document sufficient to assess whether the assertion of privilege is valid;
- f. The specific basis upon which the privilege is claimed; and
- g. With respect to any claim of privilege relating to an attorney, or action, advice or work product of an attorney, the identity of the attorney involved.

25. If any portion of any document responsive to these requests is withheld under claim of privilege, any non-privileged portion of such document must be produced with the portion claimed to be privileged redacted.

26. You are to produce each document requested herein in its entirety, without deletion or excision (except as qualified by claims of privilege), regardless of whether you consider the entire document to be relevant or responsive to the requests.

27. Whenever a document is not produced in its entirety, including all attachments, or is produced in redacted form, so indicate on the document, state with particularity the reason or reasons it is not being produced in its entirety, and describe to the best of your knowledge, information, and belief and with as much particularity as possible, those portions of the document that are not being produced.

28. If you withhold any information or documents requested herein on the grounds that it is protected by a confidentiality order, protective order, court order or other agreement, identify the relevant request for production, the specific grounds on which your objection is based, the nature of the information, the identity of the document withheld including the Bates number if any, identify the lawsuit or other proceeding or transaction to which the order or agreement relates, the parties to the confidentiality or protective order and provide a copy of the order or agreement.

29. Pursuant to Federal Rule of Civil Procedure 26(b)(2), you must identify and describe, specifically and in detail, any and all electronically stored information you have designated as "not reasonably accessible because of undue burden or cost." This rule requires that you "identify, by category or type, the sources containing potentially responsive information that

1 you are neither searching nor producing. The identification should . . . provide enough detail to
2 enable the requesting party to evaluate the burdens and costs of providing the discovery and the
3 likelihood of finding responsive information on the identified sources.” See Fed. R. Civ. P.
4 26(b)(2) advisory committee comment.

5 30. If any document requested herein has been lost, discarded, or destroyed, the
6 document so lost, discarded, or destroyed shall be identified in a writing (produced at the time and
7 place that documents are demanded to be produced by this request) as completely as possible,
8 together with the following information: date of disposal, manner of disposal, reason for disposal,
9 person authorizing the disposal, and person disposing of the documents.

10 **DOCUMENTS TO BE PRODUCED**

11 **REQUEST FOR PRODUCTION NO. 19:**

12 DOCUMENTS sufficient to identify every call recipients’ first name, last name, area code,
13 cellular telephone number, date, and result of each call for ALL campaigns ran through OR
14 processed by ANY Global Connect dialer in which THIRD PARTIES were the focus within the
15 CLASS PERIOD.

16 **REQUEST FOR PRODUCTION NO. 20:**

17 DOCUMENTS sufficient to identify every call recipients’ first name, last name, area code,
18 cellular telephone number, date, and result of each call for ALL campaigns ran through OR
19 processed by ANY VIC OR DAKCS dialer in which THIRD PARTIES were the focus within the
20 CLASS PERIOD.

21 **REQUEST FOR PRODUCTION NO. 21:**

22 DOCUMENTS sufficient to identify every call recipients’ first name, last name, area code,
23 cellular telephone number, date, and result of each call for ALL campaigns ran through OR
24 processed by ANY Global Connect dialer in which REFERENCE NUMBERS were the focus
25 within the CLASS PERIOD.
26
27

1 **REQUEST FOR PRODUCTION NO. 22:**

2 DOCUMENTS sufficient to identify every call recipients' first name, last name, area code,
3 cellular telephone number, date, and result of each call for ALL campaigns ran through OR
4 processed by ANY VIC OR DAKCS dialer in which REFERENCE NUMBERS were the focus
5 within the CLASS PERIOD.

6 **REQUEST FOR PRODUCTION NO. 23:**

7 DOCUMENTS sufficient to identify every SKIP-TRACED CALL RECIPIENTS' first
8 name, last name, area code, cellular telephone number, date, and result of each call to a SKIP-
9 TRACED CALL RECIPIENT within the CLASS PERIOD.

10
11 Dated: February 8, 2017

BURSOR & FISHER, P.A.

12 By: /s/ Yeremey O. Krivoshey
13 Yeremey O. Krivoshey

14 L. Timothy Fisher (State Bar No. 191626)
15 Annick M. Persinger (State Bar No. 272996)
16 Yeremey O. Krivoshey (State Bar No.295032)
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21 apersinger@bursor.com
22 ykrivoshey@bursor.com
23
24
25
26
27

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Bursor & Fisher, P.A., 1990 North California Blvd., Suite 940, Walnut Creek, CA 94596. On February 8, 2017, I served the within document(s):

**PLAINTIFFS' SECOND SET OF REQUESTS FOR PRODUCTION TO DEFENDANT
RASH CURTIS & ASSOCIATES**

- ☐ by placing a copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Walnut Creek, California addressed as set forth below.
- ☐ by depositing a true copy of the same enclosed in a sealed envelope with delivery fees provided for an Overnight/Federal Express pick up box or office designated for overnight delivery, and addressed as set forth below.
- ☐ By causing a personal delivery of a copy of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by facsimile transmission on that date. This document was transmitted by using a Brother MFC-9970CDW facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (925) 407-2700. The transmission was reported as complete and without error.
- ☒ by e-mail transmission on that date. These documents were transmitted via e-mail to the following e-mail addresses as set forth below.

Mark E. Ellis
Amanda N. Griffith
ELLIS LAW GROUP LLP
740 University Avenue, Suite 100
Sacramento, CA 95825
Tel: (916) 283-8820
Fax: (916) 283-8821
Email: mellis@ellislawgrp.com
agriffith@ellislawgrp.com

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, executed on February 8, 2017, at Walnut Creek, California.



Debbie Schroeder

BURSOR & FISHER, P.A.

L. Timothy Fisher (State Bar No. 191626)
Yeremey O. Krivoshey (State Bar No. 295032)
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Telephone: (925) 300-4455
Facsimile: (925) 407-2700
E-Mail: ltfisher@bursor.com
ykrivoshey@bursor.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ, on
Behalf of Themselves and all Others
Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No. 16-cv-03396-YGR

**PLAINTIFFS' THIRD SET OF
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO DEFENDANT RASH
CURTIS & ASSOCIATES**

1 PROPOUNDING PARTY: Plaintiffs Sandra McMillion, Jessica Adekoya, and Ignacio Perez

2 RESPONDING PARTY: Rash Curtis & Associates

3 SET NUMBER: Three

4 Pursuant to the provisions of Federal Rule of Civil Procedure 34 and the Civil Local Rules,
5 Plaintiffs request that Defendant Rash Curtis & Associates (“Defendant” or “Rash Curtis”) respond
6 to the following Requests for Production of Documents within the time allowed by law. The
7 production shall occur at the offices of Bursor & Fisher, P.A., at 1990 North California Boulevard,
8 Suite 940, Walnut Creek, California 94596.

9 As soon as practicable, the parties shall meet and confer in good faith regarding an
10 appropriate protocol for the production of documents. In lieu of such an agreement, the production
11 of electronically stored information shall be in PDF format, and hardcopy documents shall be
12 scanned and produced as PDF images. Original document orientation shall be maintained (i.e.,
13 portrait to portrait and landscape to landscape). All documents must be searchable through Optical
14 Character Recognition (“OCR”). When subjecting documents to an OCR process, the settings of
15 the OCR software shall maximize text quality over processing speed. Any settings such as
16 “autoskewing,” “auto-rotation,” and the like should be turned on when documents are run through
17 the OCR process. Notwithstanding the above, Microsoft Excel files or other spreadsheet programs,
18 database files, videos, and any other file types that reasonably require viewing in their native
19 format for full understanding of their content shall be produced in their native format. The
20 production of electronically stored documents shall also include all attendant metadata. Where
21 such attendant metadata is not available, any available bibliographic coding shall be produced in its
22 stead.

23 All documents must be assigned a Bates/control number that shall always: (1) be unique
24 across the entire document production, (2) maintain a constant length (zero/0-padded) across the
25 entire production, (3) contain no special characters or embedded spaces, and (4) be sequential
26 within a given document. If a Bates number or set of Bates numbers is skipped in a production, the
27 producing party will disclose the Bates numbers or ranges in a cover letter accompanying the

1 production.

2 **DEFINITIONS**

3 The following definitions and instructions are incorporated by reference whenever
4 applicable in this document:

5 1. The term “ANY” shall also mean “ALL” and vice versa. As used herein, the
6 singular shall always include the plural and the present tense shall also include the past tense. The
7 words “AND” as well as “OR” shall be construed disjunctively or conjunctively as necessary to
8 bring within the scope of this request all DOCUMENTS or things that might otherwise be
9 construed to be outside its scope.

10 2. The term “CONCERN” (or a form thereof) shall mean comprising, constituting,
11 dealing with, discussing, reflecting, evidencing, pertaining to, prepared for, representing,
12 supporting, demonstrating, corroborating, proving, refuting, disputing, rebutting, contradicting,
13 relating or referring to, stating, describing, recording, noting, embodying, containing, mentioning,
14 involving, studying, analyzing, discussing, evaluating, or relevant to. As indicated, the term
15 necessarily includes information which is in opposition to as well as in support of the position(s)
16 and claim(s) of the DEFENDANT in this action.

17 3. The term “CLASS PERIOD” shall mean the period beginning four years prior to the
18 filing of this action, through present.

19 4. The terms “DEFENDANT” and “YOU” shall mean Defendant and any relevant
20 predecessors, successors, subsidiaries, departments, divisions, committees, and/or affiliates, and
21 including, without limitation, any organization or entity which it manages or controls, together with
22 all present and former directors, officers, employees, agents, representatives, attorneys, or any
23 persons acting, or purporting to act, on its behalf, including any call center or consulting firms
24 retained, employed, or consulted by DEFENDANT in connection with PHONE CALLS.

25 5. The term “DOCUMENTS” shall mean all written, typed, printed, recorded, or
26 graphic matter of every type and description, however and by whomever prepared, produced,
27 reproduced, disseminated, or made, in any form, now or formerly in the possession, custody, or

control of any DEFENDANT, its agents, employees and attorneys, or any of them, including, but not limited to, letters, facsimiles, correspondence, telegrams, memoranda, agreements, intra- and interoffice communications, e-mails, text messages, SMS messages, drafts, working papers, data sheets, indexes, purchase orders, requisitions, plans, studies, tests, trials, summaries, analyses, reports, presentations, results of investigations, reviews, bulletins, proposals, estimates, appraisals, recommendations, critiques, engineering calculations, bills of materials, drawings, sketches, charts, spreadsheets, displays, notices, diaries, books, desk calendars, appointment books, messages, instructions, work assignments, notes, notebooks, drafts, data sheets, specifications, statistical records, tapes, tape recordings, partial or complete reports of telephone conversations, photographs, slides, public statements, newspaper or other media releases, public and governmental filings, opinions, and any other writings or recordings. If any document was, but is no longer in any DEFENDANT'S possession or subject to any DEFENDANT'S control, identify the document.

6. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

7. These requests for production are directed to Defendant Rash Curtis & Associates.

8. If a person other than Defendant is known or believed to have in its possession, custody, or control documents or information responsive to any request, please state the name of the entity, the kind or nature of the documents or information known or believed to be maintained, any process you have initiated to retrieve these documents and the date it will be available to Plaintiffs, or information sufficient to make it available to Plaintiffs through Plaintiffs' efforts.

9. In responding to these requests, furnish all information and documents, including information contained in or on any document, that is known or available to you from all files or other sources that contain responsive documents, wherever located, and whether active, in storage, or otherwise, including all documents in the possession of your attorneys and any accountants, other professional persons or experts, investigators, or other persons acting on your behalf, or under you or your attorneys' control, employment, or direction.

10. The obligation to produce the documents specified below is of a continuing nature;

1 your responses to these document requests are to be supplemented to the full extent required by the
2 Federal Rules of Civil Procedure, including Rule 26(e), and the Civil Local Rules of this
3 jurisdiction, and if at any time you acquire possession, custody, or control of any additional
4 documents specified below, such documents are to be furnished promptly to counsel for Plaintiffs
5 at the address provided above, unless another place is mutually agreed-upon by counsel.

6 11. Where only a portion of a document relates or refers to the subject indicated, the
7 entire document is to be produced nevertheless, along with all attachments, appendices, and
8 exhibits.

9 12. All documents shall be produced as they are kept in the usual course of business
10 with any identifying labels, file markings, or similar identifying features.

11 13. All documents produced in response to these requests shall be organized and labeled
12 to correspond with the request to which they respond, and each response to these requests shall
13 identify the documents being produced in response to each request by Bates stamp number or
14 otherwise.

15 14. If there are no documents responsive to any request specified below, you shall so
16 state in writing, produced at the time and place that documents are demanded to be produced by
17 this request.

18 15. If any document or portion thereof is withheld under a claim of privilege, the
19 withholding party shall produce so much of the document as is not subject to the possible claim of
20 privilege, and shall furnish a statement, or "privilege log," signed by the party's counsel, which
21 identifies each document or portion thereof for which a privilege is claimed, including the
22 following information:

- 23 a. The date of the document;
- 24 b. The name and title of the person who wrote, authored, prepared, signed, or
25 originated the document, or the person who knows about the information
26 contained therein;
- 27 c. The name and title of the recipient or recipients of the document;

- d. All persons to whom copies of the documents were furnished, along with such persons' job titles or positions;
- e. A brief description of the subject matter or nature of the document sufficient to assess whether the assertion of privilege is valid;
- f. The specific basis upon which the privilege is claimed; and
- g. With respect to any claim of privilege relating to an attorney, or action, advice or work product of an attorney, the identity of the attorney involved.

16. If any portion of any document responsive to these requests is withheld under claim of privilege, any non-privileged portion of such document must be produced with the portion claimed to be privileged redacted.

17. You are to produce each document requested herein in its entirety, without deletion or excision (except as qualified by claims of privilege), regardless of whether you consider the entire document to be relevant or responsive to the requests.

18. Whenever a document is not produced in its entirety, including all attachments, or is produced in redacted form, so indicate on the document, state with particularity the reason or reasons it is not being produced in its entirety, and describe to the best of your knowledge, information, and belief and with as much particularity as possible, those portions of the document that are not being produced.

19. If you withhold any information or documents requested herein on the grounds that it is protected by a confidentiality order, protective order, court order or other agreement, identify the relevant request for production, the specific grounds on which your objection is based, the nature of the information, the identity of the document withheld including the Bates number if any, identify the lawsuit or other proceeding or transaction to which the order or agreement relates, the parties to the confidentiality or protective order and provide a copy of the order or agreement.

20. Pursuant to Federal Rule of Civil Procedure 26(b)(2), you must identify and describe, specifically and in detail, any and all electronically stored information you have designated as "not reasonably accessible because of undue burden or cost." This rule requires that

1 you “identify, by category or type, the sources containing potentially responsive information that
 2 you are neither searching nor producing. The identification should . . . provide enough detail to
 3 enable the requesting party to evaluate the burdens and costs of providing the discovery and the
 4 likelihood of finding responsive information on the identified sources.” See Fed. R. Civ. P.
 5 26(b)(2) advisory committee comment.

6 21. If any document requested herein has been lost, discarded, or destroyed, the
 7 document so lost, discarded, or destroyed shall be identified in a writing (produced at the time and
 8 place that documents are demanded to be produced by this request) as completely as possible,
 9 together with the following information: date of disposal, manner of disposal, reason for disposal,
 10 person authorizing the disposal, and person disposing of the documents.

11 **DOCUMENTS TO BE PRODUCED**

12 **REQUEST FOR PRODUCTION NO. 24:**

13 DOCUMENTS sufficient to identify ALL persons within the CLASS PERIOD for whom
 14 YOU have had a debt collection account in their name, including the account number and
 15 telephone number for all such individuals.

16 **REQUEST FOR PRODUCTION NO. 25:**

17 DOCUMENTS sufficient to identify ALL telephone numbers YOU obtained through skip
 18 tracing within the CLASS PERIOD.

19
 20 Dated: August 25, 2017

BURSOR & FISHER, P.A.

21 By: /s/ Yeremey O. Krivoshey
 22 Yeremey O. Krivoshey

23 L. Timothy Fisher (State Bar No. 191626)
 24 Yeremey O. Krivoshey (State Bar No.295032)
 25 1990 North California Blvd., Suite 940
 26 Walnut Creek, CA 94596
 27 Telephone: (925) 300-4455
 Email: ltfisher@bursor.com
 ykrivoshey@bursor.com

PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Bursor & Fisher, P.A., 1990 North California Blvd., Suite 940, Walnut Creek, CA 94596. On August 25, 2017, I served the within document(s):

**PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
TO DEFENDANT RASH CURTIS & ASSOCIATES**

- ☒ by placing a copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Walnut Creek, California addressed as set forth below.
- ☐ by depositing a true copy of the same enclosed in a sealed envelope with delivery fees provided for an Overnight/Federal Express pick up box or office designated for overnight delivery, and addressed as set forth below.
- ☐ By causing a personal delivery of a copy of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by facsimile transmission on that date. This document was transmitted by using a Brother MFC-9970CDW facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number (925) 407-2700. The transmission was reported as complete and without error.
- ☐ by e-mail transmission on that date. These documents were transmitted via e-mail to the following e-mail addresses as set forth below.

Mark E. Ellis
Anthony P. J. Valenti
ELLIS LAW GROUP LLP
1425 River Park Drive, Suite 400
Sacramento, CA 95815
Tel: (916) 283-8820
Fax: (916) 283-8821
Email: mellis@ellislawgrp.com
avalenti@ellislawgrp.com

I declare under penalty of perjury under the laws of the State of California that the above is true and correct, executed on August 25, 2017, at Walnut Creek, California.


Debbie Schroeder

Mark E. Ellis - 127159
Anthony P. J. Valenti - 284542
ELLIS LAW GROUP, LLP
740 University Avenue, Suite 100
Sacramento, CA 95825
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Attorneys for Defendant RASH CURTIS & ASSOCIATES

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ, on Behalf of
Themselves and all Others Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No.: 4:16-cv-03396-YGR

**DEFENDANT'S RESPONSES TO
PLAINTIFFS' SECOND SET OF
INTERROGATORIES**

PROPOUNDING PARTY: PLAINTIFFS SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ

RESPONDING PARTY: DEFENDANT RASH CURTIS & ASSOCIATES

SET NUMBER: TWO

This responding party has not fully completed its investigation of the facts relating to this case, has not fully completed its discovery in this action, and has not completed its preparation for the trial. All the answers contained herein are based upon such information and documents which are presently available and specifically known to this responding party and disclose only those contentions which presently occur to such responding party. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to

1 substantial additions, changes in and variations from the contentions herein set forth. The following
2 responses are given without prejudice to responding party's right to produce evidence of any
3 subsequently discovered fact or facts which this responding party may later recall. Responding party
4 accordingly reserves the right to change any and all answers herein as additional facts are ascertained,
5 analyses are made, legal research is completed and contentions are made.

6 The answers contained herein are made in a good faith effort to supply as much factual
7 information and as much specification of legal contentions as is presently known but should in no way
8 be in prejudice of responding party in relation to further discovery, research and analysis.

9 **INTERROGATORY NO. 8:**

10 IDENTIFY ALL debtor's accounts in YOUR DAKCS OR Beyond ARM software bearing a "SKP"
11 status code or marker during the CLASS PERIOD.

12 **RESPONSE TO INTERROGATORY NO. 8:**

13 Objection; this interrogatory is vague and ambiguous, overbroad and oppressive, unduly
14 burdensome and harassing, and seeks information that is neither relevant nor reasonable calculated to
15 lead to the discovery of admissible evidence. Without waiving the foregoing objection(s), this
16 responding party responds as follows: None.

17 Dated: June 26, 2017

ELLIS LAW GROUP LLP

18
19 By 

Anthony P. J. Valenti
Attorney for Defendant

RASH CURTIS & ASSOCIATES

VERIFICATION

I, Bob Keith, declare:

I am the Executive Vice President, Legal Department of RASH CURTIS & ASSOCIATES, Defendant to the within action.

I have read the foregoing responses to DEFENDANT'S RESPONSES TO PLAINTIFF'S SECOND SET OF INTERROGATORIES, and the same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement.

Executed on the 26th day of June, 2017 at Vacaville, CA,

RASH CURTIS & ASSOCIATES

By: 

Bob Keith

Executive Vice President, Legal Department

McMILLION, ADEKOYA, PEREZ v. RASH CURTIS

Case No. 4:16-cv-03396-YGR

Northern District of California

CERTIFICATE OF SERVICE

I, Jennifer Mueller, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 740 University Avenue, Suite 100, Sacramento, CA 95825.

On June 26, 2017, I served the following document(s) on the parties in the within action:

DEFENDANT'S RESPONSES TO PLAINTIFFS' SECOND SET OF INTERROGATORIES

X	BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
----------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

L. Timothy Fisher Annick M. Persinger Yeremey Krivoshey Bursor & Fisher, P.A. 1990 N. California Boulevard Suite 940 Walnut Creek, CA 94596	Attorneys for Plaintiffs Sandra McMillion, Jessica Adekoya and Ignacio Perez
---------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on June 26, 2017.

By 
 Jennifer Mueller



Yeremey Krivoshey <ykrivoshey@bursor.com>

McMillion v. Rash Curtis & Associates, Case No. 4:16-cv-03396-YGR

Anthony Paul John Valenti <AValenti@ellislawgrp.com>

Wed, Jun 28, 2017 at 9:49 AM

To: Yeremey Krivoshey <ykrivoshey@bursor.com>

Cc: "L. Timothy Fisher" <ltfisher@bursor.com>, Rosanne Estrella <restrella@ellislawgrp.com>, Crystal Strong <cstrong@ellislawgrp.com>, Mark Ellis <mellis@ellislawgrp.com>, Cheri Bowden <cbowden@ellislawgrp.com>, jsmith <jsmith@bursor.com>, Paula Crary <pcrary@ellislawgrp.com>, Jennifer Mueller <jmueller@ellislawgrp.com>

Yeremey,

What my client will testify to under oath is not in question. I'm just telling you what I've learned in talking to my client's contact over at Global Connect. He was the one that told me Global Connect saves every campaign list that is uploaded by one of its clients.

And, as noted in Rash Curtis' responses to your client's second set of interrogatories (which, by the way, were timely served by mail on Monday), Rash Curtis does not use the "SKP" status code on any of its collection accounts. I know this probably contradicts what your star witness, Steve Kizer, testified to, but he simply has no clue what he is talking about. He was a compliance manager responsible for training new collectors, not generating campaign lists or notating collection accounts.

Again, it was my understanding, based on discussions with my client's Global Connect representative, that the tab-delimited files uploaded to Global Connect are often named by GC's clients and that name might be useful in determining the selection and filtering criteria used to generate the campaign lists. I did not, however, indicate that Rash Curtis did, in fact, name its files in such a fashion or, in fact, store multiple versions of the campaign lists which it regularly generates. I merely suggested that this might be a possible solution to your problem regarding ascertainability of the proposed classes. Nevertheless, I will ask my client to start storing a redundant copy of each and every campaign list it generates during the pendency of the litigation, despite my own personal opinion that such "evidence" is not relevant to your specific claims.

Anthony P. J. Valenti**Attorney at Law | Associate****Ellis Law Group, LLP**

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WARNING: The information contained in this e-mail is intended for the use of the individual or entity to which it is addressed, and may be privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivery to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this e-mail in error, please notify us immediately at the telephone number listed above, or by return e-mail to avalenti@ellislawgrp.com and delete this communication in a manner that permanently removes it from any computer drive in your possession. This document was not intended or written to be used and it cannot be used for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

From: Yeremey Krivoshey [mailto:ykrivoshey@bursor.com]**Sent:** Wednesday, June 28, 2017 9:04 AM**To:** Anthony Paul John Valenti**Cc:** L. Timothy Fisher; Rosanne Estrella; Crystal Strong; Mark Ellis; Cheri Bowden; jsmith; Paula Crary; Jennifer Mueller**Subject:** RE: McMillion v. Rash Curtis & Associates, Case No. 4:16-cv-03396-YGR

Is your client willing to testify under oath that GC retains every single campaign list? I suspect that we're going to get a lot of "I don't know" responses, which is the problem. Rash Curtis has a duty not to destroy any records relevant to this litigation, while GC does not. You've essentially admitted that Rash Curtis destroyed all of its campaign lists, and are now pointing to a third party, as if their retention is relevant to Defendant's duty.



Yeremey Krivoshey <ykrivoshey@bursor.com>

McMillion v. Rash Curtis & Associates, Case No. 4:16-cv-03396-YGR

Anthony Paul John Valenti <AValenti@ellislawgrp.com>

Sat, Jul 22, 2017 at 3:27 PM

To: Yeremey Krivoshey <ykrivoshey@bursor.com>, Mark Ellis <mellis@ellislawgrp.com>

Cc: "L. Timothy Fisher" <ltfisher@bursor.com>, Rosanne Estrella <restrella@ellislawgrp.com>, Crystal Strong <cstrong@ellislawgrp.com>, Paula Cray <pcray@ellislawgrp.com>, Cheri Bowden <cbowden@ellislawgrp.com>, jsmith <jsmith@bursor.com>, Jennifer Mueller <jmueller@ellislawgrp.com>

It's not prejudicial; it's accurate and illustrative. As I told you before, your clients (let's be honest, really you) do not get to substitute their (your) judgment for my own client's judgment in how to best conduct a diligent search for documents responsive to your ridiculously overbroad and burdensome requests for production. (to which valid objections were made). I agreed to take all 28 of your search terms to my client and I offered up five management-level custodians. Unfortunately, the volume of the emails responsive to your overbroad search terms is not reasonably accessible because of undue burden or cost. See Rule 26(b)(2)(B). And I never agreed to produce emails that were merely responsive to your search terms. They were simply a way to try and cull the herd in order to find what you are actually entitled to, which are only the non-privileged, relevant emails responsive to your requests at issue. As indicated in my portion of the dispute statement, your search terms do not even address some of your requests, and we've complied with others already. To the extent you want seven, one-month samples of call logs containing only calls made to numbers pulled from fields 4-10 or accounts marked SKP, I've explained that it isn't possible to segregate that information. The best I can do is get you the information from 7,000,000+ calls which is entirely useless since it would only contain the number called not where it came from or whether the related account was marked SKP (although, to my knowledge, none of Rash Curtis' accounts are marked SKP, despite what that liar Steven Kizer told you when you had him alone at a deposition you didn't properly serve notice of).

Yeremey, I've tried to work with you on this, but your entire case is frivolous; your clients' depositions confirmed that much. Your supervising partner has refused our request for a stipulation for leave to file a supplemental opposition to your motion for class certification, and you've done next to nothing to address the real issues at the heart of this discovery dispute: your overbroad requests. You're asking my client to go back through 5 years of emails to find some "smoking gun" so you can get treble damages when you don't even have a valid TCPA claim in the first place.

Anthony P. J. Valenti**Attorney at Law | Associate****Ellis Law Group, LLP**

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avalenti@ellislawgrp.com

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3

4 SANDRA MCMILLION, JESSICA
5 ADEKOYA, and IGNACIO PEREZ,
6 on Behalf of Themselves and
7 all Others Similarly Situated,
8 Plaintiffs,

9 vs.

No. 4:16-cv-03396-YGR

10 RASH CURTIS & ASSOCIATES,
11 Defendant.
12
13

14 VIDEOTAPED DEPOSITION OF NICK KEITH
15 Walnut Creek, California
16 Monday, October 16, 2017
17 Volume 1
18
19
20

21 Reported by:

22 JODI L. BOSETTI

CSR No. 11316, RPR

23 JOB No. 2730696
24

25 PAGES 1 - 93

1 Q Okay. So it has their demographic
2 information, including their telephone numbers. And I
3 don't mean to pin you in. I'm not saying that
4 necessarily every account has a phone number. I'm
5 just saying that's typically the kind of fields that 09:45
6 are contained in those files; is that right?

7 A Correct.

8 Q And so -- and then it also has the -- the
9 amount of money they actually owe; is that right?

10 A Correct. 09:45

11 Q And when these -- so when these files come
12 in, if there's multiple phone numbers for one debtor,
13 how are they separated, or if they are?

14 MR. ELLIS: The question is vague and ambiguous.

15 You can answer. 09:45

16 THE WITNESS: There's multiple phone number
17 fields.

18 BY MR. KRIVOSHEY:

19 Q Okay. What kind of phone number fields are
20 there? 09:46

21 A I'm not sure what you mean.

22 Q Well, you said there's multiple, so describe
23 the multiple phone number fields.

24 A We have phone number fields listed 1 through
25 9. 09:46

1 Q Okay. There's no phone field 10?

2 A I don't recall.

3 Q Okay. Do these phone number fields signify
4 something else or are they just randomly placed in
5 these phone number fields when they come in? 09:46

6 A There are significant places where the phone
7 numbers have to be put in.

8 Q Okay. So when an account first comes in,
9 what is -- for example, what does phone field 1
10 signify? 09:46

11 A Usually the primary telephone number that's
12 provided from the client.

13 Q Okay. What about phone field 2?

14 A It is -- phone field 1 through 4 are from
15 what comes in from the client, whatever phone number 09:47
16 comes in from the client.

17 Q Okay. Is there -- so what is -- phone field
18 number 2, though, is that an employment number, a
19 spouse number, or is it not designated?

20 A Typically an employment phone number, but I 09:47
21 can't speak for every single phone number on the
22 accounts.

23 Q Okay. How about phone field 3?

24 A That doesn't have any special meaning. It's
25 a phone number that came from the client. 09:47

1 Q And there -- there's -- it's an e-mail thread
2 and you're on some of these e-mails too. You were on
3 some of those e-mails, right?

4 A It appears, yes.

5 Q And this was -- all of these e-mails appear 11:12
6 to be written between February 24th and February 25th
7 of 2014; is that correct?

8 A Yes.

9 Q Turn to the third page, please. There's an
10 e-mail from you on February 24th at 4:57 p.m. Do you 11:13
11 see that?

12 A Yes.

13 Q And you say, "Hello. I was talking to Chris
14 and Bob, and Chris's theory is if we have all ECA and
15 Accurint skip tracing phone numbers placed in fields 5 11:13
16 through 10, we can make the dialer in Global not call
17 these phone numbers and only the first four fields,
18 which are always reserved for client-given phone
19 numbers or approved phone numbers by the debtor.
20 Global also can spit out a no cell phone exception 11:14
21 report so we know the reason Global did not call this.
22 This can save us money on costs." Do you see that?

23 A Yes.

24 Q And so after February 24, 2014, did Rash
25 Curtis ensure that all ECA and Accurint skip tracing 11:14

1 phone numbers were placed in phone fields 5 through
2 10?

3 MR. ELLIS: Lacks foundation, calls for
4 speculation. As phrased, it's argumentative.

5 You can answer. 11:14

6 THE WITNESS: Ask the question one more time.

7 MR. KRIVOSHEY: Can you repeat my question,
8 please.

9 (Record read.)

10 MR. ELLIS: Same objections. 11:15

11 THE WITNESS: Yes.

12 MR. KRIVOSHEY: And --

13 MR. ELLIS: Hold on one second, Yeremey.

14 Jodi, just for the record, it's Accurint,
15 A-C-C-U-R-I-N-T. 11:15

16 BY MR. KRIVOSHEY:

17 Q And when did Rash Curtis transition to
18 placing ECA and Accurint's skip tracing phone numbers
19 into phone fields 5 through 10?

20 MR. ELLIS: Again, lacks foundation, calls for 11:16
21 speculation.

22 You can answer if you know.

23 THE WITNESS: I don't remember.

24 BY MR. KRIVOSHEY:

25 Q Was it in 2014? 11:16

1 MR. ELLIS: Same objections.

2 You can answer if you know.

3 THE WITNESS: I don't remember for sure.

4 BY MR. KRIVOSHEY:

5 Q Do you remember if it was in 2015? 11:16

6 A I don't remember for sure.

7 Q Do you remember it if it was in 2016?

8 A I still don't remember.

9 Q When is your first memory of Rash Curtis
10 placing skip trace phone numbers from ECA and Accurint 11:16
11 into phone fields 5 through 10?

12 MR. ELLIS: Again, same objections.

13 You can answer.

14 THE WITNESS: 2014.

15 BY MR. KRIVOSHEY: 11:17

16 Q Okay. So in 2014, for those phone numbers
17 placed in fields 5 through 10, if that happened, were
18 numbers and phone fields 5 through 10 called by VIC?

19 A Since that happened?

20 Q No, in 2014. 11:18

21 A In 2014, I don't know.

22 Q What about in 2015?

23 A I don't know.

24 Q Has that happened at any point from 2014
25 through the present? 11:18

1 THE WITNESS: I don't know.

2 BY MR. KRIVOSHEY:

3 Q Do -- are you aware of any cell phone scrubs
4 done prior to August 3rd, 2015?

5 A I don't remember. 11:24

6 Q And then the first sentence of this e-mail
7 says, "We need a field where we can store cell phones
8 in the header ASAP." Do you see that?

9 A Yes.

10 Q So as of August 3rd, 2015, did Rash Curtis 11:25
11 not have a field where -- to store cell phones?

12 A I don't remember.

13 Q Okay. So on page 2, at the very bottom
14 there's an e-mail dated August 4, 2015, at 3:01 from
15 you. And it carries over on to the next page. Do you 11:26
16 see that?

17 A Yes.

18 Q And so you said, "We are currently waiting
19 from a spin from Dakcs that will get all phone
20 numbers," in parenthesis, "Sequence 1 through 4," 11:27
21 closed paren, "that were entered by employee No. 99,
22 Dakcs from any day after DOR, which will be from any
23 ECAs or batching from skip tracing vendors. When
24 these are gathered, they will place them into sequence
25 5 through 10"; do you see that? 11:27

1 A Yes.

2 Q Do you remember if Dakcs did a spin to
3 collect all numbers that were in sequence 1 through 4
4 that were entered by employees into phone fields 5
5 through 10? 11:28

6 MR. ELLIS: The question is vague and ambiguous.

7 You can answer.

8 THE WITNESS: Yeah.

9 BY MR. KRIVOSHEY:

10 Q And when did that happen? 11:28

11 A I don't remember.

12 Q Was that -- do you remember if it happened in
13 after August 4th of 2015?

14 A I don't remember the date.

15 Q Do you remember if it happened before then? 11:28

16 A No, I don't remember.

17 Q Do you recall Dakcs ever running a spin to
18 get numbers in sequence 1 through 4 that were entered
19 by employees and put those numbers into phone fields 5
20 through 10 before August 24, 2015? 11:28

21 A I don't remember.

22 Q What is DOR?

23 A Date of referral.

24 Q So are you saying here that numbers entered
25 by employees after the date of referral come from ECA 11:29

1 or from skip trace vendors?

2 A The question one more time.

3 Q Are you saying that numbers entered by
4 employees from any day after DOR are from ECAs or from
5 skip tracing vendors? 11:29

6 MR. ELLIS: I'm sorry, now I need that -- I need
7 that reread, please.

8 (Record read.)

9 MR. ELLIS: It's vague and ambiguous.

10 You can answer if you understand it. 11:30

11 THE WITNESS: Not all of them.

12 BY MR. KRIVOSHEY:

13 Q Was -- is Dakcs able to do a spin to collect
14 all numbers that were obtained from ECAs or other skip
15 tracing vendors? 11:30

16 A No.

17 MR. ELLIS: You're asking -- oh, I'm sorry.

18 You're asking for his current state of mind?

19 MR. KRIVOSHEY: Current state of mind, yes.

20 MR. ELLIS: Okay. You can answer. 11:30

21 THE WITNESS: No.

22 BY MR. KRIVOSHEY:

23 Q So then what were you exactly asking for
24 Dakcs to do at that time?

25 A At that time we were asking for the spin. 11:31

1 Q To do what?

2 A To move phone numbers from sequences 1
3 through 4 to sequences 5 through 10.

4 Q And which phone numbers specifically?

5 A Employee -- or numbered by -- excuse me. 11:31
6 Phone numbers entered by employee No. 99.

7 Q What is employee No. 99?

8 A That is an automated number. It's not a real
9 employee number. It's a batching number.

10 Q So all numbers entered by employee No. 9 -- 11:31
11 99, then, would be entered automatically and not by an
12 employee; is that correct?

13 A Correct.

14 Q Is Dakcs able to do a spin to collect all
15 numbers entered by employee No. 99? 11:31

16 A No.

17 Q Was it ever able to do that?

18 A I'm not sure.

19 Q So did Dakcs -- was Dakcs able to do the spin
20 that you were asking it to do? 11:32

21 A Yes.

22 Q So then Dakcs was able to pull numbers
23 entered by employee No. 99, correct?

24 A Previously you said "all numbers."

25 Q Entered by employee No. 99. 11:32

1 A Right. But all numbers or just the numbers?

2 Q So which numbers can Dakcs pull from employee
3 No. 99 and which can it not pull?

4 MR. ELLIS: The question is vague and ambiguous.
5 It -- I would suggest that we start with what actually 11:33
6 happened and then we can move from there, because I am
7 not -- I have no idea what you guys are talking about
8 at this point in time. The record is a mess.

9 BY MR. KRIVOSHEY:

10 Q What numbers from employee No. 99 is Dakcs 11:33
11 able to pull?

12 A The phone numbers that are currently living
13 in the edit tracking history.

14 Q Is it still able to pull those numbers today?

15 MR. ELLIS: Lacks foundation, calls for 11:34
16 speculation.

17 You can answer if you know.

18 THE WITNESS: Which numbers?

19 BY MR. KRIVOSHEY:

20 Q The numbers entered by employee No. 99 that 11:34
21 currently exist.

22 A Not all, no.

23 Q Which numbers can it not pull today?

24 A Phone numbers that no longer lived in edit
25 tracking history. 11:34

1 We didn't just -- we didn't get an actual file.

2 BY MR. KRIVOSHEY:

3 Q What is a TeamViewer exercise? What do you
4 mean?

5 A A TeamViewer is where we can basically -- I 11:36
6 can look at what they're looking at. So we would go
7 over the results or the change or the spin and we
8 would look at it, make sure everything looked right
9 and it would go. There's not actually any type of
10 file, it's not an export. 11:36

11 Q And what would they be looking at it on?

12 A Usually -- usually it would be their inquiry.

13 Q What is that?

14 A It's a -- it's a part of their software to
15 where they can pull accounts. Basically it's just 11:37
16 going to give you back the information.

17 Q I understand. And so where -- when you say
18 you were looking at it with them, were you in their
19 offices or how did that work?

20 A With a TeamViewer, I was watching their 11:37
21 computer through my computer.

22 Q I understand.

23 Okay. And then the second bullet point of
24 that e-mail, it says, "ECA are currently being
25 remapped to only upload new phone numbers from 5 11:38

1 through 10." Do you see that?

2 A Yes.

3 Q What did you mean there?

4 A That the ECA return would be remapped to
5 field phones 5 through 10 if there was a return phone 11:38
6 number.

7 Q Okay. So are you saying that if an ECA
8 lookup has a phone number, it would automatically put
9 into phone fields 5 through 10; is that the goal?

10 A Correct. 11:38

11 Q And did that system ever get put in place?

12 A Yes.

13 Q Do you know when that was?

14 A I don't have a date.

15 Q But it would be fair to say that it wasn't 11:38
16 before the date of this e-mail?

17 MR. ELLIS: I'm going to object. Lacks
18 foundation, calls for speculation.

19 THE WITNESS: I don't remember.

20 BY MR. KRIVOSHEY: 11:39

21 Q Okay. And the fourth bullet point there
22 says, "We are currently and since the beginning of me
23 starting in IT, keep all files that have been sent to
24 us electronically for any backup. In case of a suit,
25 we can prove these phone numbers were provided on the 11:39

1 clients' file." Do you see that?

2 A Yes.

3 Q And so, you say, "And since the beginning of
4 me starting in IT." Are you referring to 2011?

5 A Yes. 11:39

6 Q And if -- and so for files that are sent
7 electronically by a client, where are those files
8 stored?

9 A There's different locations.

10 Q Are you able to retrieve them? 11:40

11 A Yes.

12 Q How quickly?

13 A It depends on the file.

14 Q Would it be more than a week?

15 A Typically, no. 11:40

16 Q Okay.

17 A Okay. Correction on that. This would be for
18 files that were sent to us from the client, like a new
19 business file, not any other electronic files. This
20 is specifically meaning for the file that was sent to 11:41
21 us from the client, as in going back up to No. 3,
22 numbers provided by the client. No. 4 is referring to
23 that. And it's not all electronic files for backup.
24 It is particularly from the client. I just want to
25 point that out. 11:41

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3

4 SANDRA MCMILLION, JESSICA
ADEKOYA, and IGNACIO PEREZ,
5 on Behalf of Themselves and
all Others Similarly Situated,

6
7 Plaintiffs,

8 v. No. 4:16-cv-03396-YGR

9 RASH CURTIS & ASSOCIATES,
10 Defendant.
11
12
13
14

15
16
17 DEPOSITION OF DANIEL CORREI
18 Walnut Creek, California
19 Friday, October 20, 2017
20 Volume 1
21

22 Reported by:

KELLY WILLIAMS

23 CSR No. 6442

24 JOB No. 2730682

25 PAGES 1 - 89

1 27 an e-mail dated September 15, 2015?

2 (Plaintiffs' Exhibit No. 27 was marked) 10:27

3 MR. KRIVOSHEY: Q. Do you have Exhibit 27?

4 A. Yes.

5 Q. What is Exhibit 27?

6 A. Looks like it's an e-mail.

7 Q. What is the date of the e-mail?

8 A. At the top of this page it says "September
9 15th, 2015."

10 Q. It looks like you are on this e-mail thread as
11 well, correct?

12 A. Correct.

13 Q. All right. 10:27

14 So if you turn to the second page, there's an
15 e-mail from Diane Anderson where she says "...we need to
16 dig into some skip list this week." Do you see that?

17 A. Let's see.

18 Q. It's the second paragraph there. 10:27

19 A. Yes.

20 Q. What is a skip list?

21 A. That would be a list of -- we'd pull a list of
22 accounts with -- that haven't had contact and see if
23 there's anything that we can manually skip trace on.

24 Q. Okay. So how would that process work?

25 A. You see a name, and you'd Google it. You'd 10:28

1 take a look at, you know, just internet sites, see what
2 you could find, if you can find who the person is in a
3 particular city or where they're working, maybe they're
4 a business owner, Google it, make a call. That's all
5 done manually.

6 Q. So say that you found a number for those
7 people. Where would that number go?

8 A. Without contact, it would go into fields 5 10:28
9 through 10.

10 Q. Okay. And with contact?

11 A. If they are giving us a consent to call, it
12 would go into 1 through 4.

13 Q. And why would the numbers for the ones with no
14 contact -- why would they go into fields phone -- phone
15 fields 5 through 10?

16 A. We don't have consent to call. 10:29

17 Q. You don't have consent to call numbers in
18 phone fields 5 through 10?

19 A. Correct.

20 Q. Okay. You can put that aside.

21 That was Exhibit 27, right?

22 A. Uh-huh.

23 MR. ELLIS: Yes.

24 MR. KRIVOSHEY: May I have the court reporter
25 mark as Exhibit 28 an e-mail dated April 12th, 2013?

1 messaging campaign.

2 Q. So for a messaging campaign, Rash Curtis today
3 will scrub cell phones?

4 A. Uh-huh.

5 MR. ELLIS: Is that yes? 10:52

6 THE WITNESS: Yes. Sorry.

7 MR. KRIVOSHEY: Q. So that means for a
8 messaging campaign today, no cell phones will be called?

9 A. That means that for a mess- -- a type of
10 message campaign, cell phone numbers could be excluded.

11 Q. What do you mean by could be? So not always?

12 A. We -- it depends. If we have it -- a consent
13 to call it, we're going to call it.

14 Q. How do you determine if you have consent to
15 call that number?

16 A. From our clients in the fields 1 through 4. 10:53

17 Q. Okay. So you -- you will cell phone scrub --
18 Rash Curtis today cell phone scrubs messaging campaigns
19 for phone fields 5 through 10 --

20 A. Yes.

21 Q. -- is that correct?

22 A. No, we don't message the 5 through 10.

23 Q. Just don't call them, period?

24 A. Yeah, we're not messaging cell phones in 5
25 through 10, period.

1 Q. Do you know -- so earlier -- correct me if I'm
2 wrong, I think you said that skip trace numbers are
3 placed in phone fields 5 through 10; is that right?

4 A. Correct.

5 Q. Do you know when Rash Curtis initiated that
6 system? 11:06

7 A. Been years. I don't remember exactly when.

8 Q. Do you know if it was 2013?

9 A. 2013, 2014, somewhere around there.

10 Q. Could it have been in 2015?

11 A. I can't comment on that, but I know it -- I
12 know it was around 2013, 2014, somewhere around there. 11:06

13 Q. So before Rash Curtis had a system where skip
14 trace phone numbers were placed in 5 through 10, where
15 did the skip trace phone numbers go?

16 A. They would have been -- they could have been
17 put in one of the fields -- the only other field they
18 probably -- that probably would have been used would be
19 a job field. Job field falls in the 1 through 4
20 number -- 1 through 4 fields. 11:06

21 Q. Okay.

22 A. So if they skip trace, they had a lead on a
23 possible place of employment, they would have put it in
24 that place of employment field.

25 Q. If they skip traced and got a cell phone, a

1 personal cell phone, where would that go?

2 A. That would go in our REM numbers which is 5
3 through 10.

4 Q. Okay. But I'm asking before Rash Curtis
5 instituted the 5 through 10 system, where would these
6 cell phone -- skip trace cell phones go?

7 A. Most skip trace numbers have always gone 11:07
8 through there; but as far as if they were put maybe as a
9 home number or something, I don't recall that ever being
10 done or told to -- that was never instructed. The only
11 time we would put something in a home field which is
12 part of 1 through 4 is with debtor contact where we know
13 that's a good contact number. So that would -- okay --
14 that would be an instance where they would put it in the
15 1 through 4. They now know it's a home number. They
16 have consent, they spoke with someone or it's the main
17 contact number, but they're not going to put it in a 11:08
18 home field if they don't know if it's a home number.

19 Q. Are you familiar with how skip trace numbers
20 that come from places like Accurint?

21 A. Yes.

22 Q. Okay. So is it true that numbers that Rash
23 Curtis obtains now through software are automatically 11:08
24 placed in phone fields 5 through 10?

25 A. Yes.

1 Q. Was there a time that companies like Accurint
2 and other programs that Rash Curtis used for skip
3 tracing that those numbers that were obtained through
4 that method were put in other phone fields other than 5
5 through 10?

6 A. No, we didn't put them in those other fields.

7 Q. So from the beginning of the time that you
8 worked at Rash Curtis, you believe that Accurint put
9 in -- numbers into phone fields 5 through 10? 11:09

10 A. Yes.

11 Q. And so you think that that was starting in
12 2010?

13 A. Yes, through software, yes. That's what
14 you're asking. 11:09

15 MR. KRIVOSHEY: I'm going to have the court
16 reporter mark as Exhibit 31 an e-mail dated February
17 7th, 2017.

18 (Plaintiffs' Exhibit No. 31 was marked) 11:11

19 MR. KRIVOSHEY: Q. Do you have Exhibit 30 --
20 did I give you one -- do you have Exhibit 31?

21 A. Yes.

22 Q. What is it?

23 A. An e-mail.

24 Q. And what's the date of this e-mail?

25 A. February 7th, 2017.

From: Natasha Paff <natasha@rashcurtis.com>
Sent: 2/25/2014 12:17:04 PM
To: Nick Keith <nick@rashcurtis.com>; Steve Kizer <steve.kizer@rashcurtis.com>; Bob Keith <bob.keith@rashcurtis.com>; Chris Paff <chris.paff@rashcurtis.com>
Cc: Terry Paff <terry.paff@rashcurtis.com>
Subject: RE: Cell Phone - Auto Dial

Attachments: [image001.jpg](#), [image002.jpg](#)

Hi Nick,

I appreciate your prompt response. I will review this matter in more detail with Chris directly.

Thank you

Natasha

Natasha L Paff
CAO



&

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Fax 707-454-2052
Cell 707-592-0889



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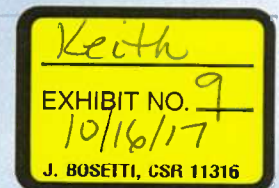
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From: Nick Keith
Sent: Tuesday, February 25, 2014 10:35 AM
To: Natasha Paff; Steve Kizer; Bob Keith; Chris Paff
Cc: Terry Paff
Subject: RE: Cell Phone - Auto Dial

Hi Natasha,

We can make this happen it would show CEL. Although it would greatly clutter our Master screen if we added it in – we can place this in the Vic Dialer screen sequence 5-10 where we can pull if they are CEL or not.



The only thing we were trying to avoid is another 3rd party vendor cost and custom for our system to input this information and I believe this is why Chris came up with a more immediate and costless solution.

Please let me know how everyone would like me to proceed and I will make it happen. ☺

Nick Keith,

**Nick Keith
Lead IT Analyst**



&

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From: Natasha Paff

Sent: Tuesday, February 25, 2014 10:32 AM

To: Steve Kizer; Nick Keith; Bob Keith; Chris Paff

Cc: Terry Paff

Subject: RE: Cell Phone - Auto Dial

I believe the client would like to see a dedicated field for cell phones. What is the current description of the fields you are referring to in your email below?

The priority is identifying a dedicated field for the cell phone number. The description doesn't necessarily need to read cell phone (although this would be nice). How difficult is it to change the description?

Thank you

Natasha

Natasha L Paff
CAO



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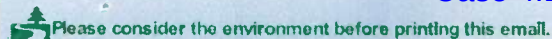
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From: Steve Kizer
Sent: Monday, February 24, 2014 10:23 PM
To: Nick Keith; Bob Keith; Chris Paff
Cc: Terry Paff; Natasha Paff
Subject: RE: Cell Phone - Auto Dial

Hi,
Would this resolve the clients request to block or have the control to not call cell phones? Are the clients going to want to see an actual field labeled cell phones?

Sincerely,

Steven Kizer

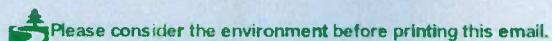
Steven Kizer
Compliance Director



&

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From: Nick Keith
Sent: Monday, February 24, 2014 4:57 PM
To: Bob Keith; Steve Kizer; Chris Paff
Cc: Terry Paff; Natasha Paff
Subject: RE: Cell Phone - Auto Dial
Importance: High

Hello,

I was talking to Chris and Bob and Chris's Theory is if we have all ECA, and Accurant skip tracing phone numbers placed in fields 5-10 we can make the dialer and global not call these phone numbers and only the first four fields which are ALWAYS reserved for client given phone numbers or approved phone numbers by the debtor. Global also can spit out a no cell phone exception report so we know the reason global did not call this. This can save us money on a custom.

Nick Keith,

**Nick Keith
Lead IT Analyst**



&

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From: Nick Keith <nick@rashcurtis.com>
Sent: 5/12/2016 5:11:50 PM
To: Bob Keith <bob.keith@rashcurtis.com>
Cc: Chris Paff <chris.paff@rashcurtis.com>
Subject: RE: Work on making sure cell phones in field 5+ don't get gc

Attachments: [image001.png](#)

Wow I really don't remember that? Don't see it in my e-mails either. I'll send an e-mail to customs to change our custom and make sure it doesn't populate anything in fields 5+.

Nick Keith,

Nick Keith
Lead IT Analyst

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From: Bob Keith
Sent: Thursday, May 12, 2016 5:04 PM
To: Nick Keith <nick@rashcurtis.com>
Cc: Chris Paff <chris.paff@rashcurtis.com>
Subject: RE: Work on making sure cell phones in field 5+ don't get gc

Yes. I thought you were on the earlier emails. You were going to speak to Dakcs about it. We need to eliminate human error.

Thanks

Bob Keith

Bob Keith
Executive Vice President
Client Services, Legal and Marketing



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From: Nick Keith

Sent: Thursday, May 12, 2016 4:57 PM

To: Bob Keith <bob.keith@rashcurtis.com>

Cc: Chris Paff <chris.paff@rashcurtis.com>

Subject: RE: Work on making sure cell phones in field 5+ don't get gc

I didn't know that. Isn't there places to choose what numbers are being called on the global set up?

Nick Keith,

Nick Keith
Lead IT Analyst

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From: Bob Keith

Sent: Thursday, May 12, 2016 4:56 PM

To: Nick Keith <nick@rashcurtis.com>

Cc: Chris Paff <chris.paff@rashcurtis.com>

Subject: RE: Work on making sure cell phones in field 5+ don't get gc

Right but then we had humans put the wrong lines on GC.

Thanks

Bob Keith

*Bob Keith
Executive Vice President
Client Services, Legal and Marketing*



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From: Nick Keith
Sent: Thursday, May 12, 2016 8:22 AM
To: Bob Keith <bob.keith@rashcurtis.com>
Cc: Chris Paff <chris.paff@rashcurtis.com>
Subject: RE: Work on making sure cell phones in field 5+ don't get gc

??? We made it so ECA's don't put phone numbers in the top fields and the rest of the numbers would be what came from the client. The collectors should be putting skip traced number's into the lower fields. This was implemented probably 6+ months ago.

Nick Keith,

**Nick Keith
Lead IT Analyst**



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From: Bob Keith

Sent: Thursday, May 12, 2016 8:20 AM

Case 4:16-cv-03396-YGR Document 259-1 Filed 02/11/19 Page 141 of 191

To: Nick Keith <nick@rashcurtis.com>

Cc: Chris Paff <chris.paff@rashcurtis.com>

Subject: Work on making sure cell phones in field 5+ don't get gc

Hi,

Any more information on blocking these fields? Was ion my calendar to follow up on.

Thanks

Bob Keith

Bob Keith

Executive Vice President

Client Services, Legal and Marketing

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From: Nick Keith <nick@rashcurtis.com>
Sent: 8/4/2015 5:45:52 PM
To: Bob Keith <bob.keith@rashcurtis.com>; Chris Paff <chris.paff@rashcurtis.com>
Cc: Terry Paff <terry.paff@rashcurtis.com>; Natasha Paff <natasha@rashcurtis.com>
Subject: RE: Cell Phones

Attachments: [image001.png](#), [image002.png](#)

Might be time to invest in some transfer agents?

Nick Keith,

Nick Keith
Lead IT Analyst

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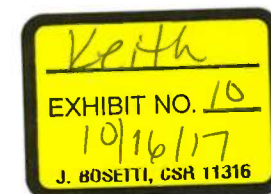
From: Bob Keith
Sent: Tuesday, August 04, 2015 5:45 PM
To: Chris Paff <chris.paff@rashcurtis.com>; Nick Keith <nick@rashcurtis.com>
Cc: Terry Paff <terry.paff@rashcurtis.com>; Natasha Paff <natasha@rashcurtis.com>
Subject: RE: Cell Phones

Maybe have half the office manual dialing cells while the other have are global or on vic. Or pop all and use FOTI message on the land lines.

Thanks

Bob Keith

Bob Keith
Executive Vice President
Client Services, Legal and Marketing



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From: Chris Paff
Sent: Tuesday, August 04, 2015 3:30 PM
To: Nick Keith <nick@rashcurtis.com>; Bob Keith <bob.keith@rashcurtis.com>
Cc: Terry Paff <terry.paff@rashcurtis.com>; Natasha Paff <natasha@rashcurtis.com>
Subject: RE: Cell Phones

Used the cell phone scrub today on queues h0-h4 and actually still had phones to call – 15k – however, if you listen to the floor you can hear the difference it makes calling land lines only. Hopefully we can have this resolved in a few days...

Potential Poe's will still be listed in Poe phone number 2 when skip tracing manually.

Chris Paff

Chris Paff
Executive Vice President of Collections and Operations

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From: Nick Keith
Sent: Tuesday, August 04, 2015 3:01 PM
To: Bob Keith <bob.keith@rashcurtis.com>

Cc: Terry Paff <terry.paff@rashcurtis.com>; Chris Paff <chris.paff@rashcurtis.com>; Natasha Paff <natasha.paff@rashcurtis.com>
Subject: RE: Cell Phones

Hello,

We have discussed the cell phones today and here is what we came up with as of now.

- 1) We are currently waiting from a spin from Dakcs that will get all phone numbers (sequence 1-4) that were entered by employee number 99 *Dakcs* from any day after DoR which would be from any ECA's or batching from skip tracing vendors. When these are gathered they will place them into sequence 5-10
- 2) ECA are currently being remapped to only upload new phone numbers from 5-10. We are looking into the possibility of just using Dakcs Logic since Dakcs logic already has these going to these sequences.
- 3) Collectors are to only use the first four sequences for verified phone numbers and/or phone numbers that have been provided by the client.
- 4) We are currently (And since the beginning of me starting in IT) keep all files that have been sent to us electronically for any back up in case of a suit we can prove these phone numbers were provided on the clients file.

Chris is there any more you would like to add right now?

Nick Keith,

Nick Keith
Lead IT Analyst

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From: Bob Keith

Sent: Monday, August 03, 2015 9:09 PM

To: Nick Keith <nick@rashcurtis.com>

Cc: Terry Paff <terry.paff@rashcurtis.com>; Chris Paff <chris.paff@rashcurtis.com>; Natasha Paff <natasha@rashcurtis.com>

Subject: Re: Cell Phones

We should be safe if we get them from the client. So we need a field that only the number the client gave us goes there. Other skip and auto loads have to be barred from this field.

Thanks

Bob Keith

Bob Keith

Executive Vice President

Client Services, Legal and Marketing

 *Revenue Recovery Specialist*

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On Aug 3, 2015, at 6:33 PM, Nick Keith <nick@rashcurtis.com> wrote:

We will make the change in the screen in the morning and Chris lets go over some type of process where the scrub will automatically move the cell phone over to this new field.

Now the tricky part is getting the cell phone numbers given to us by the client (majority do not list if it's a cell phone or not) . Does it matter if the client specified cell phone in it? And to try and get the system to know not to move these ones approved by the client. Unless we're just going to be safe and always leave these where they are.

I'll see what time works best for you to go over this in the morning.

Nick Keith,

Nick Keith
Lead IT Analyst

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On Aug 3, 2015, at 5:16 PM, Terry Paff <terry.paff@rashcurtis.com> wrote:

Chris and Nick,

This is horrible, please make this happen ASAP and keep me in the loop daily as to your progress.

Thanks,

Terry

Terrence L. Paff
President & CEO

<image001.png>

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THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION GIVEN WILL BE USED FOR THAT PURPOSE

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From: Bob Keith
Sent: Monday, August 03, 2015 5:09 PM
To: Nick Keith <nick@rashcurtis.com>; Chris Paff <chris.paff@rashcurtis.com>
Cc: Terry Paff <terry.paff@rashcurtis.com>; Natasha Paff <natasha@rashcurtis.com>
Subject: Cell Phones
Importance: High

We need a field where we can store cell phones in the header ASAP. This line needs to be clearly marked as a cell phone. We have to call these manually unless our clients send us the admitting form that shows the debtor gave them this number to call.

We need to start doing cell scrubs immediately. We can do this through global connect. I have 3 TCPA claims just in the last 4 weeks where we are going to have to pay. If we get one of our big clients like Sutter sued they are going to drop us like a hot potato.

There is no limit to this TCPA claims/damage. Today's asking for 26K. If they didn't give this number to the client we will have to pay.

We are now to big not to do cell phone scrubs.

Thanks

Bob Keith

*Bob Keith
Executive Vice President
Client Services, Legal and Marketing*

<image004.png>

Revenue Recovery Specialist

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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 ---o0o---

4 SANDRA McMILLON, JESSICA
5 ADEKOYA, and IGNACIO
6 PEREZ, on Behalf of
7 Themselves and All Others
8 Similarly Situated,

9 Plaintiffs,
10 vs.

No. 4:16-cv-03396-YGR JSC

11 RASH CURTIS & ASSOCIATES,
12
13 Defendants.
14 _____/

15 DEPOSITION OF COLIN B. WEIR

16
17
18 Taken before Kimberly L. Avery

19 CSR No. 5074

20 December 11, 2018

21
22
23 Aiken Welch Court Reporters
24 One Kaiser Plaza, Suite 250
25 Oakland, California 94612
(510) 451-1580/(877) 451-1580
Fax (510) 451-3797
www.aikenwelch.com

1 Q. When is the last time you received data from --
2 if you look at your records -- from class counsel?

3 A. That may be harder to tell from these records,
4 but I think I received updated data. The bills from
5 October of this year are reflecting updated account
6 data.

7 Q. When you say "updated account data," let's be
8 clear what we're talking about. Are you talking about
9 internal records from Rash Curtis?

10 A. They are records that reflect a list of the
11 debtor accounts of Rash Curtis and then the phone
12 numbers that were associated with those accounts, where
13 I understand phone fields one through four are related
14 to the debtor, and five through ten are related to
15 parties other than the debtor.

16 Q. Okay. So -- and where did you get that
17 information from; where did you gain that knowledge,
18 Mr. Weir?

19 A. So the literal data was passed on to me through
20 counsel for plaintiffs, and an understanding of what
21 the data consists of was provided both from counsel for
22 plaintiff and through the various declarations of Randy
23 Snyder.

24 Q. Okay. And so in coming up with your opinions,
25 you relied upon opinions by Mr. Snyder?

1 A. I think I could have done the work that I've
2 done here just based on the instructions of counsel,
3 but I think the work that I've done is supported by
4 what Mr. Snyder says.

5 Q. Okay. But again, let's go back to my question.
6 Did you, in coming up with your opinions, rely upon any
7 opinions that Mr. Snyder has given?

8 A. Again, I don't think so. My opinions are
9 driven by the data and the way in which I was asked to
10 analyze the data. Again, I believe those things are
11 supported by what Mr. Snyder has said.

12 Q. In terms of communications with class counsel
13 with respect to your engagement in the McMillon case,
14 did you make any handwritten notes --

15 A. No.

16 Q. -- at any point in time?

17 A. My handwriting is basically illegible, so...

18 Q. So I just want to be clear, so the answer is
19 no, you never took any handwritten notes to basically
20 confirm or document any communication you may have had
21 on the phone, for example, with class counsel; is that
22 correct?

23 A. That's correct.

24 Q. And I just want to be clear, you have not
25 purged your file of any documents that I asked for

1 A. There were some, yes.

2 Q. What were they?

3 A. Request 15: "Copies of any and all deposition
4 transcripts in which deponent has testified as an
5 expert witness in any other matter." Request 13, as it
6 relates to evidence of payments received from any law
7 firm for compensation provided to the deponent as it
8 relates to any case other than this one.

9 Q. Okay. Anything else?

10 A. I'm checking.

11 I believe that's it.

12 Q. Mr. Weir, did you, in any of the data
13 manipulation that you did in this case in coming up
14 with your opinions, did you -- did you come to any
15 conclusion as to how many of the phone calls that you
16 believe are actionable -- we'll talk about those after
17 a break -- were skiptraced, where the numbers were
18 skiptraced?

19 A. I'm not offering an opinion about that one way
20 or the other.

21 Q. I saw that one of the -- you've got a list in
22 your Rule 26 disclosure of materials that you relied
23 upon.

24 Are you familiar with that list?

25 A. Yes.

1 Q. Okay. And one of those was a deposition given
2 in April of 2017 by a former Rash Curtis employee by
3 the name of Steven Kizer.

4 Are you familiar with that deposition?

5 A. I have a recollection of it, but it's been a
6 long time since I've looked at it.

7 Q. So you've got that in your computer someplace
8 related to this case?

9 A. I think so, yes.

10 Q. Okay. Why didn't you produce that today?

11 A. I didn't produce documents that had been
12 produced by defendant in the course of the litigation;
13 in other words, documents that would already have been
14 in your possession.

15 Q. I didn't produce -- is that right? So you made
16 a determination that you were not going to honor the
17 deposition notice if you thought that I had documents
18 that already had been produced?

19 MR. KRIVOSHEY: Objection as to form.
20 Argumentative.

21 BY MR. ELLIS:

22 Q. You can answer.

23 A. It was the instruction I received in terms of
24 how to prepare the production.

25 Q. And again, by class counsel?

1 A. Correct.

2 Q. Okay.

3 MR. ELLIS: We've been going about an hour.
4 Let's take five minutes.

5 (Break taken.)

6 MR. ELLIS: We're going to mark this next in
7 order. This is your Rule 26 report, or what you call a
8 "Declaration," Mr. Weir.

9 THE WITNESS: You've already marked that as
10 Exhibit 2.

11 MR. ELLIS: Did I? Okay.

12 You are right.

13 BY MR. ELLIS:

14 Q. What I'd like to do for a second is go back to
15 what you have as Exhibit 2, documents reviewed in our
16 Exhibit 2.

17 A. I'm with you there.

18 Q. So I see that one of the things that you
19 reviewed was the class action complaint filed June 17,
20 2016.

21 Do you see that?

22 A. Yes.

23 Q. All right. And was there anything in
24 particular of interest that you used in formulating any
25 of your opinions that you gave in your Declaration?

1 A. I think it sets out the concept of the theory
2 of liability in terms of violations of the TCPA.

3 Q. And before this case, before McMillon, had you
4 worked on any other TCPA cases?

5 A. I'm trying to remember whether the other
6 engagements began -- some of the other engagements
7 began at approximately the same time, but this was --
8 in terms of testifying about the TCPA -- is one of the
9 earlier engagements in that regard.

10 Q. Okay. And I take it you are not -- you are
11 not -- you have not been engaged in this case to
12 provide any legal opinions as to, for example, what's
13 an autodialer or not an autodialer; is that correct?

14 A. That's correct, I'm not offering an opinion
15 about what constitutes an autodialer.

16 Q. Okay. And whether or not there's jurisdiction
17 here under the TCPA, you are not here to offer any
18 opinions on that; you are here to essentially assume
19 that there is jurisdiction under the TCPA and kind of
20 progress from there, correct?

21 A. So -- multi-part question. I'll give the
22 multi-part answer. I am not offering opinions about
23 jurisdiction or other legal affairs, and the Reference
24 Manual on Scientific Evidence, as it relates to damages
25 quantification, does contain the instruction that a

1 damages quantifier would assume that plaintiffs are
2 able to establish their theory of liability, and that
3 it be set forth from there.

4 Q. Well, let me ask you about that. What are you
5 referring to when you say "the damages," is there
6 some -- is there some Bible on damages that people in
7 your field use?

8 A. Well, as I said, there's something known as the
9 Reference Manual on Scientific Evidence. It relates to
10 many topics: Consumer surveys, regression analyses,
11 damages generally. I don't know that I've read the
12 whole thing, but sometimes people are shocked at this
13 idea of assuming that liability is established, and
14 that tends to be necessary because damages work, for
15 whatever reason, tends to happen before liability is
16 established. And if you can't come up with a theory of
17 liability to match your damages and assume that that
18 will be borne out at trial, then you can't really do a
19 damages analysis.

20 So I quote that just as a reference to say
21 there's an authority that says whatever plaintiffs'
22 theory of liability is, you should assume that
23 defendants will be held liable for that harm.

24 Q. Okay. All right. And then it looks like you
25 looked at 47 U.S. Code 227.

1 identify those things.

2 Q. What was it? Was there something, however, a
3 concept or an opinion, that you gleaned from Mr.
4 Snyder's declarations that you have utilized in coming
5 up with your opinions here?

6 A. Not in this declaration, I don't think so.
7 Again, I understand that what Mr. Snyder says dovetails
8 with plaintiffs' theory of liability and from my
9 understanding of work that I've done. But if Mr.
10 Snyder was not offering testimony, that wouldn't change
11 the functional analysis that I've performed here.

12 Q. And I see that again, here is the deposition of
13 Steve Kizer, April 13th, 2017.

14 Did you review that entire deposition?

15 A. I don't recall one way or the other.

16 Q. If you had, would it be in your billing
17 records?

18 A. The record would just say, potentially,
19 "reviewed documents" or "reviewed the transcript," but
20 I don't know that it would say "reviewed full
21 transcript," or something like that.

22 Q. Then I see, "GC call detail records."

23 Do you see that?

24 A. Yes.

25 Q. And when you say the "GC call detail records,"

1 tell me exactly what you mean by that.

2 A. There was a series of files produced. They
3 were text-based data files that were call logs for
4 certain time periods in the case.

5 Q. So this is where we have to like drill down on
6 this. When you say "call logs," were they -- were they
7 debt collector notes from communications, or were they
8 actually call logs demonstrating that phone calls had
9 been made from Rash Curtis on a particular calling
10 platform?

11 A. Thank you for trying to clarify that.

12 What I would say is from my seat -- and I
13 understand that many people may see things
14 differently -- I use the term "call detail record,"
15 which is literally the phone dialing record and
16 information about the call, synonymously with call
17 logs, which would be a reflection of the calls that are
18 made.

19 So when I use the term "call log," I am
20 referring to the call detail records that show that a
21 call was placed, what the disposition of the call was,
22 the duration of the call, what number was called,
23 information such as that. I'm not looking at the other
24 potential interpretation of the word "call log," where
25 somebody has made a note or a log of the interactions

1 over the call.

2 Q. Right, which would typically be electronic also
3 today with debt collectors. They are working on a
4 computer, right? There's a dialing system that
5 interfaces with their computer, with their collection
6 software, and as they talk with people, they make notes
7 and so forth and so on. That's the distinction I'm
8 trying to make.

9 When you say "call detail records," you are
10 talking about what in this case would be vendors of
11 Rash Curtis and the records that they kept on their
12 systems, their dialing platforms of phone calls that
13 went out and -- were they phone calls that went in?

14 A. To the best of my knowledge, these are outbound
15 calls, and these would be -- again, as you've drawn the
16 distinction, basically -- they are not billing records
17 in the sense that they are on a bill, but they are
18 similar to the type of detail that you might see on a
19 phone bill.

20 Q. Like a Verizon bill?

21 A. The call was placed on Monday, it was placed at
22 this number, it lasted three minutes. There's a little
23 bit more detailed information, but that's the type of
24 information, not the notes that someone is taking from
25 the debt collector's office.

1 Q. Okay. All right. And so the GC call detail,
2 the TCN call detail, and what you call the VIC call
3 detail, that's what we're talking about. We're talking
4 about just the records of the outbound phone calls and
5 any information that were associated with that from
6 these three vendors?

7 A. Right. Again, close to what somebody might be
8 familiar with, a layperson, with seeing on a phone
9 bill, a list of the calls placed, what number was
10 called, the duration of the call, the call disposition,
11 whether it was answered and went to voicemail, that
12 sort of thing.

13 Q. The next category are "defendant's account
14 data, including account number and fields one through
15 ten."

16 What was made up with that account data, if you
17 could tell me?

18 A. So my best recollection of that data is that it
19 contains a unique account number identifier for a
20 person who is in the debt collection system, as well as
21 who that person is. There may be address information,
22 although I was not focused on the address information,
23 and then a list of fields, I call them phone fields one
24 through ten. And in not all instances were there ten
25 numbers, but there would always be the ability to store

1 ten numbers associated with that particular account.
2 And I received that as -- I think it was an Excel
3 spreadsheet.

4 Q. So tell me the process that you utilized, if
5 any, in attempting to merge the account data with the
6 call detail records to see if you could -- if it was
7 possible to associate a particular debtor or nondebtor
8 with a phone number. How did you do that?

9 A. So steps 1 and 2 would be to take the
10 information that was provided to me and import it into
11 the Stata program. So that would be taking the raw
12 text data files, which I call the call detail records
13 here, from the three companies, and just have it in a
14 usable database format. I'm going to describe this at
15 the high level. There are some more details, and if
16 you want to get into that, I'll let you ask questions
17 about that.

18 Step two would be to import this account data,
19 which is the information about the account, the debtor,
20 and then the phone field data about numbers associated
21 with that account.

22 And we did some data cleaning. So, for
23 example, if one of the phone fields contained
24 gibberish, we would eliminate that data. Or if it
25 contained what might have been a phone number but

1 didn't conform to what a usual North American phone
2 number looks like, on the basis of trying to be
3 conservative, we would remove that from the analysis.

4 Once those two collections of data are
5 available, the statistical software platform can -- the
6 technical term is merge the two data sets, but it
7 basically compares data set 1 with data set 2 on some
8 sort of identifier. And in this case, the identifier
9 that I used was the combination of the debtor account
10 number and the telephone number that was either dialed
11 in the call detail record or existed in phone fields
12 one through ten for each account in the account data.

13 I did the account and phone number
14 combination -- again to be conservative -- in case some
15 of the fields -- phone numbers in fields one through
16 ten were repeated for different accounts. So you might
17 have one account where a number is in phone field one
18 through four and another where it's in field five
19 through ten.

20 Once you run that merge, you have three
21 categories of information, calls that have no matches
22 from the account data --

23 Q. To the -- that is, no match between the
24 defendant's account data and the call detail record?

25 A. You have to --

1 A. I do, although if you could let me rephrase it
2 just so that I think the terminology might be a little
3 bit clearer.

4 Q. That's fine.

5 A. Within each data set there are data records.

6 Q. Right.

7 A. Each record will contain from the call detail
8 record some information that is not in the account data
9 even when there is a match, and each account record
10 will contain some information that is not in the call
11 detail records even if there's a match.

12 So when you were using the term "information,"
13 I thought that that might get confusing. So if you are
14 thinking about the Venn diagram, what I would say is
15 there will be a circle representing the call detail
16 records; there will be a circle representing the
17 account records.

18 Q. Right.

19 A. And then agnostic to what is in each of those
20 records, other than what we are comparing, which is the
21 account and phone number, there will be some records
22 that appear only in the call detail records but not in
23 account data; there will be some records that appear
24 only in the account data, or at least potentially in
25 the account data but not the call detail records; and

1 then there will be the intersection in the Venn diagram
2 where there are records that are a match in the call
3 detail record and the account data. And those are the
4 records, the subset of records that are the focus of my
5 report.

6 Q. Right. In that subset of records, and we're
7 going to look at your -- look at your spreadsheets in a
8 second, but in that subset where the two Venn
9 diagrams -- the two circles come together in the Venn
10 diagram, how many distinct phone numbers, when you look
11 at GC, TCN and VIC, are we talking about?

12 A. Let me see if that information is in the
13 report.

14 So there are approximately 14 million calls in
15 the middle of the Venn diagram. Those are reflected in
16 Tables 1, 2 and 3 of the Declaration by vendor, and are
17 reflected in a little bit greater detail in Exhibits 3,
18 4 and 5.

19 I don't think I have put in here how many
20 unique telephone numbers are comprised in each of those
21 subsets, but the upper limit would be approximately
22 1.5 million, which were the possible combinations left
23 in the account data. So it would almost certainly be a
24 little bit less than that.

25 Q. So can you tell me how many actual debtors

1 A. I didn't -- I was not asked to determine
2 whether one was a debtor or not. If -- if my
3 understanding is correct, there would be very few
4 debtors in the list. But again, I haven't been asked
5 to make that determination one way or the other.

6 Q. Okay. So now I want to go back to Mr. Kizer's
7 testimony. You did rely upon that testimony, or you
8 did not?

9 A. To be honest, I don't think I'm relying on it
10 in my final report, because I don't even remember what
11 I would have taken from it.

12 Q. So he, Mr. Kizer, testifies to what numbers
13 go -- what types of numbers would go in one through
14 four and what would go in five through ten.

15 Does that kind of refresh your recollection
16 about what he testified to?

17 A. That would have been my best guess, but I have
18 not been asked to opine about what a number being in
19 phone fields one through four means, or five through
20 ten means.

21 Q. Well, do you know what it means?

22 A. Again, I understand that Mr. Snyder testifies
23 that numbers in phone fields five through ten reflect
24 numbers that have been skiptraced, but again --

25 Q. Whether that's true or not, you don't know.

1 And as I understand your testimony, you are not relying
2 upon his opinions anyway for coming up with your
3 damages analysis?

4 A. I was asked to analyze phone calls made to
5 numbers contained in fields five through ten. I'm not
6 offering an opinion about what it means to be in fields
7 five through ten.

8 Q. Okay. So do you know as you sit here today
9 whether phone numbers in phone fields five through ten
10 include land lines?

11 A. I'm fairly certain that there are both mobile
12 phones and land lines in fields five through ten.

13 Q. Did you do anything to discriminate in the
14 numbers between the two?

15 A. As to this report, no, I did not.

16 Q. And this is the report -- you understand your
17 testimony at trial is going to be framed by this
18 Declaration, this Rule 26 report.

19 You understand that?

20 A. I do understand that.

21 Q. And you understand that the court is not going
22 to permit you to give opinions outside of this report.

23 Do you understand that?

24 A. I understand that, but your questions are
25 broader, and so I'm trying to answer your questions as

1 phrased. And if you need to ask a specific question
2 about, Are you offering testimony at trial, then I need
3 that detail in the question.

4 Q. Well, okay. So Mr. Weir, don't take this the
5 wrong way, you seem like a perfectly pleasant person,
6 but I would characterize you as a professional expert
7 witness, and I will characterize you that way at trial,
8 not to hide the ball.

9 So you've -- you've probably given more expert
10 depositions than I've taken over 30 years of practice,
11 and I practice in the area of professional malpractice.
12 So when you come back to me and say, I expect you to
13 ask a very specific question, I think I'm asking
14 specific questions.

15 I'm not trying to fight with you, Colin, I'm
16 not. I'm just telling you, you know, you've been doing
17 this a long time. Let's -- I won't play games with
18 you; please don't play games with me.

19 So my question again, to just be clear, of
20 these 14 million calls that you've talked about, how
21 many of those calls went to debtors as opposed to
22 nondebtors, you just don't know?

23 A. It was not part of my assignment to make that
24 determination, so I did not make that determination.

25 Q. Okay. I just want to -- I just want a clear

1 answer. It is true, is it not, that of the 14 million
2 calls that were made, how many went to debtors and how
3 many went to nondebtors, you just don't know?

4 A. It was not part of my assignment, so I did not
5 endeavor to find out one way either or the other.

6 Q. Likewise, how many of those 14 million calls
7 that may be in phone fields five through ten were
8 skiptraced or not skiptraced was not a part of your
9 engagement either, and you have no opinion on that,
10 true?

11 A. It was not part of my assignment to determine
12 which calls were skiptraced. It was my assignment to
13 determine which calls were placed to numbers contained
14 in fields five through ten --

15 (Reporter clarification.)

16 THE WITNESS: -- determine which calls were
17 made to phone numbers in fields five through ten.

18 BY MR. ELLIS:

19 Q. Now, I'm going to go ahead and mark excerpts
20 from Mr. Kizer's April 13th deposition, so this will be
21 next in order.

22 (Defendant's Exhibit No. 7 marked for
23 Identification.)

24 BY MR. ELLIS:

25 Q. So let me just ask you -- I'm going to get to

1 whether the number was to a mobile phone or a land
2 line. It was the responsibility of another expert to
3 determine which numbers were mobile phones.

4 BY MR. ELLIS:

5 Q. And in that regard, did anyone tell you what
6 Rash Curtis' policy and procedure was to -- withdraw
7 that.

8 Did you gain any understanding as to where
9 numbers that were obtained with what we call prior
10 express consent of the call -- of the call party, where
11 they would go?

12 MR. KRIVOSHEY: Objection as to form.

13 THE WITNESS: Again, I'm not offering an
14 opinion about that. If you are asking about my
15 understanding, I've been led to believe that numbers in
16 phone fields five through ten would be skiptraced
17 numbers and other numbers would be contained in fields
18 one through four.

19 BY MR. ELLIS:

20 Q. Okay. And do you understand the materiality of
21 whether a number is supplied to Rash Curtis with prior
22 express consent or not?

23 MR. KRIVOSHEY: Objection as to form.

24 THE WITNESS: It may have some legal bearing on
25 whether that number is in or out of the case, but in

1 to make a clarification to the last answer. I didn't
2 use a service such as LexisNexis or TransUnion as the
3 basis of my November 12th report. I do rely upon
4 information from the North American Numbering Plan. I
5 think that's different than what you are asking about,
6 but I just want to make sure the record is clear.

7 Q. Well, we hadn't gotten there yet, but what is
8 the North American Numbering Plan?

9 A. That's the general organization of telephone
10 numbers issued and operating within the United States
11 and the greater North American area.

12 Q. Okay. And you accessed that database?

13 A. Either I accessed it or a member of my staff
14 did.

15 Q. Who would the member of the staff that accessed
16 it be?

17 A. That might have been Dr. Lee Selwyn.

18 Q. Okay. And what was the purpose of accessing
19 that database?

20 A. The purpose of accessing that database was to
21 generate a list of valid U.S. area codes, which are
22 sometimes known as NPA codes and NXX codes --

23 (Reporter clarification.)

24 THE WITNESS: Capital NXX -- codes, such that I
25 could review the defendants' account data and remove

1 from it any telephone number that did not comport with
2 a valid U.S. area code, NPA code, or NXX code.

3 BY MR. ELLIS:

4 Q. And how did you do that, how did you eliminate
5 telephone numbers that did not seem to have a valid
6 prefix code?

7 A. I would compare the NPA code from the
8 defendants' accounts data against the list of valid NPA
9 codes from the North American Numbering Plan. Where
10 they matched, we would keep the record; where they
11 weren't a match, the data would be eliminated from the
12 analysis.

13 Q. But this --

14 A. And I would do the same thing with the NXX
15 codes.

16 Q. I'm sorry. I kept interrupting you.

17 Did you get your answer out?

18 A. Yes, I did, finally.

19 Q. Okay.

20 A. So if you want to go back, thank you for
21 letting me clarify the answer, and we went off on a
22 tangent, but you had a question about whether or not I
23 was offering opinions about whether the numbers have or
24 have not been skiptraced. The answer is, I'm not
25 offering an opinion one way or the other. I have an

1 your damages opinion?

2 MR. KRIVOSHEY: Objection. Mischaracterizes
3 the report and the testimony.

4 THE WITNESS: That's not quite right. The
5 first step in my analysis was to go through the call
6 detail records and identify in broad strokes calls that
7 were placed to the phone fields five through ten
8 numbers that were not also placed -- or that were not
9 also numbers listed in phone fields one through four.
10 The result of that initial step are those three
11 exhibits that we just looked through together.

12 After that, I provided a collection of those
13 calls, a subset of those calls to Ms. Verkhovskaya, and
14 those calls meet the criteria that I describe in my
15 report in paragraph 12. So for the calls by Global
16 Connect, the information I provided were phone calls
17 placed to fields -- numbers in fields five through ten,
18 not contained in fields one through four, that had a
19 call disposition of answered and that were at least six
20 seconds or longer in duration.

21 BY MR. ELLIS:

22 Q. So let me just -- where did the six-second
23 limitation come from?

24 A. I was given an instruction from counsel that
25 that is the information that I was to provide to

1 based on the testimony of Mr. Snyder.

2 But again, you asked for my understanding; I'm
3 offering it. I'm not offering an opinion about that
4 one way or the other.

5 BY MR. ELLIS:

6 Q. With respect to this Table 4, do you know
7 whether any of these numbers were skiptraced?

8 A. As per our prior colloquy, it's not my
9 assignment to make a determination whether they have
10 been skiptraced. It was my assignment to determine
11 that they were in fields five through ten and not also
12 in fields one through four.

13 Q. With respect to these numbers in Table 4, do
14 you know whether any of these are land lines?

15 A. Assuming that Ms. Verkhovskaya has done the
16 analysis that she claims to have done, then none of
17 them are land lines at the time of the call.

18 Q. But do you know; do you have an opinion?

19 A. Again, I would just say that she's gone through
20 what I understand to be a reasonable process to
21 determine the mobile status of the call, and if she's
22 done what she said, then these would be calls to mobile
23 numbers and not land lines as of the time of the call.

24 Q. With respect to these numbers, do you know
25 whether or not any of these -- any of the people called

1 correct?

2 A. That's where I discuss statutory damages.

3 Q. So ultimately, you take the call count and
4 multiply that times either \$500 or \$1,500, correct?

5 A. I think -- I'm not going to speak for class
6 counsel, but they are seeking their normal statutory
7 damages of \$500, or anywhere up to the permissible
8 trebling of those damages for the willful nature of the
9 calls.

10 Q. So with respect to Table 5, which is "Statutory
11 Damages ATDS Class," what do you understand the ATDS
12 class to be?

13 A. Again, I believe that's an autodialer class.

14 Q. Okay. To skiptrace numbers?

15 A. I'm not offering an opinion about that one way
16 or the other.

17 Q. Well, okay. But again, have you read the
18 court's class certification order?

19 A. I don't recall if I have or not. I mean,
20 paragraph 15 really sets forth what I'm talking about
21 here. I've been instructed that these are the calls
22 for which plaintiffs are going to seek statutory
23 damages. If they are successful in proving that these
24 calls -- again, this is the assumption of liability --
25 if they are correct that liability could be established

1 for these calls, these are the damages.

2 If you are going to hypothesize about some
3 other liability scenario, I would need to know what
4 that is.

5 Q. Well, I'm only hypothesizing about what the
6 court has ordered here. And so each one of the four
7 subclasses here have a requirement that the phone call,
8 that the number obtained and then called was a
9 skiptraced telephone number, and that's why I keep
10 asking you about this. But you've explained to me that
11 that's not within the scope of your engagement or
12 retention here. You were given some information about
13 numbers, you've taken that information, then you've
14 multiplied it either times the treble damages of 1,500
15 or the non-willful damages of 500, and you've come up
16 with the numbers that are here. That part doesn't seem
17 hard.

18 And so your ultimate determination is that the
19 non-willful damages are \$267,349,000, correct?

20 A. If liability is established as to the
21 autodialer class, then, yes, that would be the
22 statutory damages for the numbers that I've been told
23 are going to be sought for statutory damages.

24 Q. I get it. I'm not trying to -- and then the
25 high number for willful is \$802,047,000, correct?

1 A. That's correct. If liability is established
2 for the autodialer class, those would be the statutory
3 damages for the numbers that I understand plaintiffs
4 are seeking statutory damages for.

5 Q. And then in Table 6, you've got the
6 "Pre-Recorded/Artificial Voice Class."

7 Do you see that?

8 A. Yes.

9 Q. So let me just ask you: Are you aware again
10 that there is a -- in the class certification order
11 that a pre-recorded artificial voice class was
12 certified?

13 A. I am aware of that.

14 Q. That it was certified?

15 A. It's my understanding that it was.

16 Q. Again -- all right.

17 Okay. All right. And again, with respect to
18 that class, the damages you've calculated for statutory
19 damages fall between 251 million and change and
20 755 million, correct?

21 A. Those are the numbers that are shown in the
22 table, which show the application of the statutory
23 damages, as I have been instructed would be the
24 appropriate way to do so, against the calls that I
25 understand that plaintiffs are seeking damages for

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---o0o---

SANDRA McMILLION, JESSICA
ADEKOYA AND IGNACIO PEREZ, on
Behalf of Themselves and all
Others Similarly Situated,

Plaintiffs,

vs.

No. 4:16-cv-03396-YGR JSC

RASH CURTIS & ASSOCIATES,

Defendants.

/

DEPOSITION OF RANDALL A. SNYDER

Taken Before KATHERINE J. KIRBY, CMR, CRR

CSR NO. 6418

December 17, 2018

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1 A. Yes.

2 Q. Again, that was the discussion that we were
3 having immediately before we took our lunch break with
4 respect to it is your belief that if a number appears
5 in Phone Fields 5 through 10 and does not also appear
6 in Phone Fields 1 through 4, that is a skiptraced
7 number for purposes of class determination?

8 MR. KRIVOSHEY: Objection as to form.

9 THE WITNESS: Well, I don't think I actually
10 said that was the only criteria. That was one step in
11 the process.

12 BY MR. ELLIS:

13 Q. What are the other steps?

14 A. The idea is that under the general procedures
15 and policies of Rash Curtis, my understanding is those
16 phone number Fields 5 through 10 that don't appear in 1
17 through 4 were skiptraced numbers. But there's another
18 step of determining whether those numbers were
19 associated with somebody having an account with Rash
20 Curtis or they were actually a debtor or they had owned
21 a debt or they should have been called by Rash Curtis
22 so it's a step-by-step process.

23 So that even if -- that's why I said before I
24 don't say "every" or "all" or "absolute." We're
25 looking at large numbers of records here and mistakes

1 do happen. There's a lot of data entry and mistyping
2 and things like that. But overall, these records are
3 generally very accurate but it's not just that step.
4 That's the first filtering step.

5 The other step is to see that the number that
6 was skiptraced is not somebody associated with Rash
7 Curtis, that they shouldn't call them. That's part of
8 what makes up the class. I understand from the other
9 expert witnesses they've performed that analysis and
10 determined skiptraced numbers that were not debtors to
11 Rash Curtis.

12 Q. Let's move on to Page 4. Under Paragraph A you
13 talk about the following documents that you relied upon
14 in this case. One is the complaint; is that correct?

15 A. Yes.

16 Q. We talked about that before. You told me that
17 it is your assumption that the allegations in the
18 complaint are true for purposes of your opinions?

19 A. Yes. If I didn't believe the complaint was
20 true, I wouldn't take the case.

21 Q. So are you aware that both Ms. McMillion and
22 Ms. Adekoya in the complaint said that they had never
23 given prior expressed consent to their doctors who in
24 turn gave prior expressed consent to Rash Curtis --

25 MR. KRIVOSHEY: Objection as to form.

1 need to reach you to talk about your payment, what
2 other numbers can I call you at. What other number can
3 I leave a message at. He may also supply additional
4 numbers."

5 Do you see that?

6 A. Yes.

7 Q. To your understanding based upon all this
8 evidence, those numbers go into Phone Fields 5 through
9 10?

10 MR. KRIVOSHEY: Objection as to form.

11 THE WITNESS: Yes. And my understanding from
12 the totality of the evidence is that these Phone Fields
13 5 through 10 are -- the general procedure at Rash
14 Curtis is to put skiptraced numbers in there. That
15 doesn't mean that's the only numbers they can put in
16 there and I'm not testifying to that but of course the
17 key issue is do these numbers have debtor accounts
18 associated with them. And if there's a number in there
19 that's not associated at all with a debtor account,
20 that's the additional criteria.

21 BY MR. ELLIS:

22 Q. Do you remember reading from Mr. Kizer's
23 testimony where he really did not have an understanding
24 of what prior expressed consent is? Do you remember
25 him saying that?

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Attorneys for Defendant RASH CURTIS & ASSOCIATES

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ, on Behalf of
Themselves and all Others Similarly Situated,

Plaintiffs,

v.

RASH CURTIS & ASSOCIATES,

Defendant.

Case No.: 4:16-cv-03396-YGR

**DEFENDANT'S RESPONSES TO
PLAINTIFFS' THIRD SET OF
INTERROGATORIES
[F.R.C.P. 33]**

PROPOUNDING PARTY: PLAINTIFFS SANDRA McMILLION, JESSICA ADEKOYA,
AND IGNACIO PEREZ

RESPONDING PARTY: DEFENDANT RASH CURTIS & ASSOCIATES

SET NUMBER: THREE

This responding party has not fully completed its investigation of the facts relating to this case, has not fully completed its discovery in this action, and has not completed its preparation for the trial. All the answers contained herein are based upon such information and documents which are presently available and specifically known to this responding party and disclose only those contentions which presently occur to such responding party. It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to

substantial additions, changes in and variations from the contentions herein set forth. The following responses are given without prejudice to responding party's right to produce evidence of any subsequently discovered fact or facts which this responding party may later recall. Responding party accordingly reserves the right to change any and all answers herein as additional facts are ascertained, analyses are made, legal research is completed and contentions are made.

The answers contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known but should in no way be in prejudice of responding party in relation to further discovery, research and analysis.

INTERROGATORY NO. 9:

IDENTIFY ALL debtors within the CLASS PERIOD, including the name, account number, and telephone number of all such individuals.

RESPONSE TO INTERROGATORY NO. 9:

Objection:

This interrogatory is unduly burdensome given that responding to it would require Defendant to review, one by one, each of the estimated 1,250,000 electronically stored debt collection accounts which have been referred to Defendant since June 17, 2012 – a herculean task that would likely take hundreds, if not thousands, of hours to complete, and would impose annihilating costs upon Defendant.

Under Federal Rule of Civil Procedure 26(b)(1), discoverable information must be “proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Furthermore, under Federal Rule of Civil Procedure 26(b)(2)(B), “[a] party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost.” *See also* Advisory Committee Notes regarding 2006 Amendment to F.R.C.P. 26(b)(2) (“The amendment to Rule 26(b)(2) is designed to address issues raised by difficulties in locating, retrieving, and providing discovery of some electronically stored information. Electronic storage systems often make it easier to locate and retrieve information. These advantages are properly taken into account in determining the

1 reasonable scope of discovery in a particular case. But some sources of electronically stored
2 information can be accessed only with substantial burden and cost. In a particular case, these burdens
3 and costs may make the information on such sources not reasonably accessible.”)

4 As previously explained to Plaintiff’s counsel, Defendant does not keep its collection notes,
5 which constitute electronically stored information, in any sort of readily-accessible format from which
6 such records can be easily reviewed for purposes of determining the identity of individuals who may
7 constitute “debtors” under the different statutory definitions and standards explained above.

8 In addition, this information appears to be directed towards class ascertainability and/or class
9 damages, neither of which are imminently necessary at this time. *See Brooks v. Motsenbocker*
10 *Advanced Developments, Inc.*, 2008 WL 2446205 (S.D. Cal. 2008) (requiring extensive production of
11 information related to potential damages is inefficient use of the parties’ resources where there has
12 been no judicial determination regarding liability and motion for summary judgment is pending).
13 Here, the court has already certified Plaintiffs’ classes, and Defendant’s anticipated motion for
14 summary judgment is expected to dispose of all of Plaintiffs’ claims under the FDPCA, the Rosenthal
15 Act, and the TCPA.

16 Furthermore, the term “debtor” has different meanings depending on the statutory scheme
17 involved. Generally speaking, California’s Rosenthal Fair Debt Collection Practices Act (“Rosenthal
18 Act”) defines the term “debtor” as “a natural person from whom a debt collector seeks to collect a
19 consumer debt which is due and owing or alleged to be due and owing from such person.” Cal. Civ.
20 Code § 1788.2(h) (*but see* Cal. Civ. Code § 1788.18(i), which extends the definition of “debtor” from
21 only natural persons to firms, associations, organizations, partnerships, business trusts, companies,
22 corporations, and limited liability companies). The term “consumer debt” (or “consumer credit”), in
23 turn, is defined as “money, property or their equivalent, due or owing or alleged to be due or owing
24 from a natural person by reason of a consumer credit transaction.” *Id.* at § 1788.2(f). A “consumer
25 credit transaction,” in turn, is defined as “a transaction between a natural person and another person in
26 which property, services or money is acquired on credit by that natural person from such other person
27 primarily for personal, family, or household purposes.” *Id.* at § 1788.2(e).

28 The Rosenthal Act, therefore, defines a “debtor” as any natural person from whom a debt

1 collector seeks to collect a “consumer debt” which is due and owing, or alleged to be due and owing,
 2 arising out a “consumer credit transaction” in which property, services or money is acquired on credit
 3 primarily for personal, family, or household purposes. *Gouskos v. Aptos Village Garage, Inc.*, 94
 4 Cal.App.4th 754, 759 (2001).

5 In contrast, the federal Fair Debt Collection Practices Act (“FDCPA”) does not define the term
 6 “debtor.” 15 U.S.C. § 1692a (“Definitions”). Instead, the FDCPA uses the term “consumer,” which is
 7 defined as “any natural person obligated or allegedly obligated to pay any debt.” *Id.* at § 1692a(3).
 8 The term “debt,” in turn, is defined as “any obligation or alleged obligation of a consumer to pay
 9 money arising out of a transaction in which the money, property, insurance, or services which are the
 10 subject of the transaction are primarily for personal, family, or household purposes, whether or not
 11 such obligation has been reduced to judgment.” *Id.* at § 1692a(5).

12 The FDCPA, unlike the Rosenthal Act, does not distinguish between debts arising out of
 13 consumer credit transactions and those which do not. Nonetheless, not all obligations to pay are
 14 considered “debts” subject to the FDCPA; rather, the FDCPA is triggered only when an obligation to
 15 pay arises out of a “consumer transaction,” which must involve “some kind of business dealing or
 16 other consensual obligation.” *Turner v. Cook*, 362 F.3d 1219, 1227-1228 (9th Cir. 2004) (*citing*
 17 *Hawthorne v. Mac Adjustment, Inc.*, 140 F.3d 1367, 1371 (11th Cir. 1998) (emphasis added)).

18 In sum, the term “debtors” as used here is vague and ambiguous and, as such, this interrogatory
 19 cannot be responded to as phrased. Plaintiffs have asserted causes of action for violations of both the
 20 FDCPA and the Rosenthal Act, and it is unclear exactly what information is sought by Plaintiff’s
 21 interrogatory. Moreover, Plaintiff’s interrogatory calls for a legal conclusion and/or speculation to the
 22 extent Defendant is expected to discern whether any individual is considered a “debtor” in light of the
 23 different statutory definitions and standards explained above.

24 Moreover, this interrogatory calls for information which is protected by the common law and
 25 constitutional privacy rights of third-party individuals who are not parties to this action and have not
 26 been afforded any opportunity to object to Plaintiff’s request. *See Valley Bank of Nevada v. Superior*
 27 *Court*, 15 Cal.3d 652, 656 (1975) (*citing* Cal. Const., Art. 1, § 1). In 1975, the Supreme Court of
 28 California recognized that this “inalienable right” of privacy extends “to the details of one’s personal

life.” *Valley Bank of Nevada*, 15 Cal.3d at 656. The Court held that disclosure of an individual’s private information is subject to “a careful balancing of the right of civil litigants to discover relevant facts, on the one hand, with the right of [individuals] to maintain reasonable privacy regarding their [personal information], on the other.” *Id.* at 657.

Federal courts recognize California’s constitutional privacy protections. *See Walt Disney Co. v. DeFabiss*, 168 F.R.D. 281, 283 (C.D. Cal. 1996); *Upjohn Co. v. Hygieia Biological Labs.*, 151 F.R.D. 355, 358 (E.D. Cal. 1993); *Soto v. City of Concord*, 162 F.R.D. 603, 616 (N.D. Cal. 1995); *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 190-193 (C.D. Cal. 2006). “When the constitutional right of privacy is involved, ‘the party seeking discovery must demonstrate a compelling need for discovery, and that compelling need must be so strong as to outweigh the privacy right when these two competing interests are carefully balanced.’” *Artis v. Deere & Co.*, 276 F.R.D. 348, 352 (N.D. Cal. 2011) (*quoting Wiegale v. Fedex Ground Package Sys.*, 2007 WL 628041, at *2 (S.D. Cal. 2007)). “[A]ll lawful privacy intrusions must be narrowly drawn and reasonably related in scope to the justification for their initiation.” *Terry v. Ohio*, 392 U.S. 1, 29 (1968).

Finally, this interrogatory is overbroad to the extent that it seeks information related to “debtors” dating back to June 17, 2012. The FDCPA has a 1-year jurisdictional limitations period. 15 U.S.C. § 1692k(d). The Rosenthal Act also has a 1-year statute of limitations. Cal. Civ. Code § 1788.30(f). The court granted class certification with respect to Plaintiffs’ TCPA claims only, and Plaintiffs are pursuing their FDCPA and Rosenthal Act claims on an individual basis only. (*See Order Granting Plaintiffs’ Motion for Class Certification*, p. 1, fn. 2; *see also Plaintiffs’ Supplemental Statement Regarding Class Certification*, p. 2.)

INTERROGATORY NO. 10:

IDENTIFY ALL telephone numbers within the CLASS PERIOD YOU obtained through skip tracing.

RESPONSE TO INTERROGATORY NO. 10:

Objection:

This interrogatory is unduly burdensome given that responding to it would require Defendant to review, one by one, each of the estimated 1,250,000 electronically stored debt collection accounts

1 which have been referred to Defendant since June 17, 2012 – a herculean task that would likely take
2 hundreds, if not thousands, of hours to complete, and would impose annihilating costs upon Defendant.

3 Under Federal Rule of Civil Procedure 26(b)(1), discoverable information must be
4 “proportional to the needs of the case, considering the importance of the issues at stake in the action,
5 the amount in controversy, the parties’ relative access to relevant information, the parties’ resources,
6 the importance of the discovery in resolving the issues, and whether the burden or expense of the
7 proposed discovery outweighs its likely benefit.” Furthermore, under Federal Rule of Civil Procedure
8 26(b)(2)(B), “[a] party need not provide discovery of electronically stored information from sources
9 that the party identifies as not reasonably accessible because of undue burden or cost.” *See also*
10 Advisory Committee Notes regarding 2006 Amendment to F.R.C.P. 26(b)(2) (“The amendment to
11 Rule 26(b)(2) is designed to address issues raised by difficulties in locating, retrieving, and providing
12 discovery of some electronically stored information. Electronic storage systems often make it easier to
13 locate and retrieve information. These advantages are properly taken into account in determining the
14 reasonable scope of discovery in a particular case. But some sources of electronically stored
15 information can be accessed only with substantial burden and cost. In a particular case, these burdens
16 and costs may make the information on such sources not reasonably accessible.”)

17 As previously explained to Plaintiff’s counsel, Defendant does not keep its collection notes,
18 which constitute electronically stored information, in any sort of readily-accessible format from which
19 such records can be easily reviewed for purposes of determining which telephone numbers, if any,
20 Defendant obtained through skip-tracing.

21 In addition, this information appears to be directed towards class ascertainability and/or class
22 damages, neither of which are imminently necessary at this time. *See Brooks v. Motsenbocker*
23 *Advanced Developments, Inc.*, 2008 WL 2446205 (S.D. Cal. 2008) (requiring extensive production of
24 information related to potential damages is inefficient use of the parties’ resources where there has
25 been no judicial determination regarding liability and motion for summary judgment is pending).
26 Here, the court has already certified Plaintiffs’ classes, and Defendant’s anticipated motion for
27 summary judgment is expected to dispose of all of Plaintiffs’ claims under the FDPCA, the Rosenthal
28 Act, and the TCPA.

Moreover, this interrogatory calls for information which is protected by the common law and constitutional privacy rights of third-party individuals who are not parties to this action and have not been afforded any opportunity to object to Plaintiff's request. *See Valley Bank of Nevada v. Superior Court*, 15 Cal.3d 652, 656 (1975) (citing Cal. Const., Art. 1, § 1). In 1975, the Supreme Court of California recognized that this "inalienable right" of privacy extends "to the details of one's personal life." *Valley Bank of Nevada*, 15 Cal.3d at 656. The Court held that disclosure of an individual's private information is subject to "a careful balancing of the right of civil litigants to discover relevant facts, on the one hand, with the right of [individuals] to maintain reasonable privacy regarding their [personal information], on the other." *Id.* at 657.

Federal courts recognize California's constitutional privacy protections. *See Walt Disney Co. v. DeFabiss*, 168 F.R.D. 281, 283 (C.D. Cal. 1996); *Upjohn Co. v. Hygieia Biological Labs.*, 151 F.R.D. 355, 358 (E.D. Cal. 1993); *Soto v. City of Concord*, 162 F.R.D. 603, 616 (N.D. Cal. 1995); *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 190-193 (C.D. Cal. 2006). "When the constitutional right of privacy is involved, 'the party seeking discovery must demonstrate a compelling need for discovery, and that compelling need must be so strong as to outweigh the privacy right when these two competing interests are carefully balanced.'" *Artis v. Deere & Co.*, 276 F.R.D. 348, 352 (N.D. Cal. 2011) (quoting *Wiegele v. Fedex Ground Package Sys.*, 2007 WL 628041, at *2 (S.D. Cal. 2007)). "[A]ll lawful privacy intrusions must be narrowly drawn and reasonably related in scope to the justification for their initiation." *Terry v. Ohio*, 392 U.S. 1, 29 (1968).

Dated: September 27, 2017

ELLIS LAW GROUP LLP

By


 Anthony P. J. Valenti
 Attorney for Defendant
 RASH CURTIS & ASSOCIATES

CERTIFICATE OF SERVICE

I, Jennifer Mueller, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 1425 River Park Drive, Suite 400, Sacramento, CA 95815.

On September 27, 2017, I served the following document(s) on the parties in the within action:

**DEFENDANT'S RESPONSES TO PLAINTIFFS' THIRD SET OF INTERROGATORIES
[F.R.C.P. 33]**

X

BY MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:

L. Timothy Fisher
Yeremey Krivoshey
Bursor & Fisher, P.A.
1990 N. California Boulevard
Suite 940
Walnut Creek, CA 94596

Attorneys for Plaintiffs
Sandra McMillion, Jessica Adekoya and Ignacio Perez

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on September 27, 2017.

By 
Jennifer Mueller